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The Solicitors' Journal.

LONDON, JULY 30, 1870.

THE WAR BETWEEN FRANCE AND PRUSSIA will make it necessary for commercial lawyers to rub up their old lore on the subject of "contraband," a topic of much import to shippers, ship-owners, and insurers. The decision whether any particular cargo of goods is or is not contraband of war lies theoretically as well as practically with the Prize Court of the capturing power, whose decision is a decision *in rem*, and not to be impugned in any court. It will be remembered that though a foreign judgment *in personam* may be reviewed, a foreign judgment *in rem* may not. There has indeed been a disposition on the part of the present Lord Chancellor, among other judges, to hold that even a foreign judgment *in rem* may be reviewed if on its face it has proceeded on a gross disregard of the comity of nations (see *Simpson* v. *Fogo*, 11 W. R. 418; and the report of *Castrique* v. *Imrie*, in the Exchequer Chamber, 9 W. R. 455); but it is in a high degree improbable that a foreign Prize Court decision would ever be disregarded by any of our courts. Indeed apart from their being decisions *in rem* there appears to be a sort of understanding that Prize Court decisions are conclusive on the matters before them. When we speak of a Prize Court decision being unquestionable in the court of another power we shall of course be understood as meaning unquestionable for the purposes of questions arising in the foreign court and hinging upon the question decided in the Prize Court, as, for instance, in insurance matters.

Contraband may be confiscated by the captor, beyond which there is this further consequence, that any insurance upon it is void. A contract to insure contraband is void, because it is a contract to export under circumstances which render the exportation illegal, and if the act be illegal, an insurance to protect the act is illegal likewise.

At the present moment all sorts of questions are being asked as to whether or not this, that, and the other is contraband of war. Without following Grotius into his three classifications of munitions of war, goods applicable for pleasure and not for war, and goods of a mixed nature (*ancipitis usus*), we will state as shortly as we can the present acceptation of the subject. All muniments of war conveyed to a belligerent are of course contraband; also all goods conveyed to a blockaded port. As to what is or is not a blockaded port, it is material to notice the 4th article of the French Emperor's proclamation, that "blockades, in order to be binding, must be effectual; that is they must maintained by a force really sufficient to prevent the enemy from obtaining access to the coast"—this merely expresses what has been decided in our own English courts. Two things are necessary to constitute a blockade binding on neutrals—first, that it should be notified to their country; and secondly that there should be really a substantial blockade. It is not enough for a belligerent to proclaim a blockade which he cannot maintain, but of course a blockade does not necessarily cease to be a blockade because one or two vessels manage to run the gauntlet. The blockading power is entitled to consider its notification of a blockade to the Government of a neutral power as a notification to all the subjects of that power. But it seems that, with reference to the validity of an insurance, there is no such rule, and the knowledge of the insurers is a question of fact to be determined (Lord Tenterden in *Harratt* v. *Wise*, 9 B. & C. 717). In *Naylor* v. *Taylor* (ib. 721) a master sailed to a port not knowing whether it was blockaded or no, and not intending to violate the blockade; the policy, also, on the ship was framed upon a doubt whether the blockade would be subsisting by the time the ship arrived out; it was held that the voyage, and therefore the policy, was not illegal. We need not, of course, say that all persons would be regarded as having notice of matters of public notoriety.

As to goods in general, no hard and fast definition of contraband is possible. The doctrine of "occasional contraband" (*i.e.*, that destination, &c., &c., may make anything contraband) has, indeed, been found fault with by some text writers, but may be regarded as established in modern use. For the purposes of the present war, it must be assumed that all sorts of things may be contraband according to their destination, the exigencies of the belligerent at the port to which they are addressed, and a hundred other varying circumstances. Coal, for instance, may fairly be considered contraband if conveyed to a port in which belligerent steam-rams are lying. Resin, rope, and other articles capable of being "naval stores" may be contraband when shipped for a belligerent dockyard port. Horses may be contraband if shipped out to be landed for belligerent use. Provisions may be contraband if intended for the same end (some writers have maintained that such necessaries ought to be incapable of being contraband, but that is not the rule now at any rate). Some articles are from their nature more capable of being contraband than others; thus it is very easy to understand the circumstances under which a cargo of saltpetre might be contraband, but (except, of course, as exported from or imported into a blockaded port) it is almost impossible to conceive how a cargo of violins could be contraband.

It may be useful to give a few notes of "contraband" cases decided by our own Court during the last French war.

In *The Jonge Margaretha* (1 Rob. 193), Sir Wm. Scott (afterwards Lord Stowell) observing that provisions "generally are not contraband, but may become so under circumstances arising out of the particular situation of the war, or the condition of the parties engaged in it," held that a cargo of cheese shipped by a Papenberg merchant from Amsterdam to Brest was contraband, Brest being a naval arsenal of France, in *The Zelden Rust* (6 Rob. 93) a cargo of cheese shipped from Amsterdam to Corunna was held contraband, Corunna being, "from its vicinity to Ferrol, a place of naval equipment, almost identified with that port." In these cases notice was taken of the fact that the cheese was of the quality served out in the French navy. But in *The Frau Margaretha* (6 Rob. 92) similar cheese shipped from Amsterdam to Quimper was held not contraband, on a presumption that Quimper, though near Brest, was sufficiently remote for carriage purposes to rebut a presumption of the cheese being destined thither. In these modern days of railway transit this consideration would be hardly applicable. In *The Range* (6 Rob. 127), it appearing that a cargo of biscuit for Cadiz was shipped under false papers, and had come from the public stores at Bordeaux, both ship and cargo were condemned. In *The Edward* (4 Rob. 69) wine was seized in a Prussian ship, ostensibly bound from Bordeaux to Embden, but hovering near the French coast. Here the Court examined the ship's log, and arriving, by the assistance of the Trinity Elder Brethren, at the conclusion that the intention was to get into Brest condemned the cargo.

In *The Charlotte* (*Nock*) (5 Rob. 275), Swedish copper, in sheets, but not adapted for ship-sheathing, was held not contraband. In *The Graeffen Van Gottland* (H. of L. not reported), a shipment of masts in a Russian ship for Cadiz, was condemned. The latter decision was commented on in the judgment in *The Charlotte* (*Koltzenburg*), 5 Rob. 305, in which a cargo of masts in a Russian ship for Nantes (a mercantile port), was condemned, the Court holding that with regard to an article such as masts, the character of the port of distinction was immaterial, since even in a mercantile port masts might be fitted into privateers (but note that privateering is not on foot as between France and Prussia). In *The Twee Geffroven* (4 Rob. 242), Sir William Scott laid it down that pitch and tar are universally contraband, "unless protected by treaty, or unless it is shown that they are the produce of the country from which they are exported." Similarly, in *The Neptunus* (3 Rob. 108) it was held that sailcloth is universally contraband, even when destined for ports of mere mercantile equipment.

We may also remind the reader that as regards *mixed* cargoes, "to escape from the contagion of the contraband, the innocent articles must be the property of a different owner" (Bynkershoek, and see *The Staadt Embden*, 1 Rob. 30). Where a doubtful cargo is seized and afterwards released by the Prize Court, it is a frequent practice to saddle it with the captor's expenses (see *The Gute Gesellschaft Michael*, 4 Rob. 95).

WE SAID LAST WEEK, in commenting upon the recommendations of the county court committee of the Judicature Commission, that that committee were misled by a false analogy when they inferred from the working of the system prevailing in such courts as the Mayor's Court, that the banking system (*i.e.*, the system by which the Court itself receives all sums awarded to be paid and keeps the accounts relating to them), might safely be abandoned in the county courts. We said that courts such as the Mayor's Court have to do with a wholly different class of suits from the county courts. A few figures will make our view clearer. In the year 1868 there were 10,080 plaints in the Mayor's Court, of which forty-six were for sums under £5. In 1850, the last year for which returns as to this precise point are obtainable, of every thousand plaints in the county courts 811 were for sums of £5 or less. And in 1850 the average amount sued for in the county courts was higher than it is now, so that presumably the proportion of claims below £5 must be even larger now than it was then. The result is that in the Mayor's Court the cases in which the amount claimed is under £5 are less than one-half per cent. of the total number of cases; in the county courts they are more than eighty per cent.

THE SUBJECT OF SERVING COUNTY COURT SUMMONSES by plaintiffs or their attorneys or employés has some little light thrown upon it by the recent return of county court business. We need not remind our readers that under section 2 of the Act of 1867 it is optional on the part of a plaintiff whether he has his summons served by the bailiff of the court or by himself or representative. According to the return for last year, there were 25,726 summonses issued under section 2, but only 5,859 were to be served otherwise than by bailiffs; or, in other words, about one plaintiff in five declined the services of the bailiff. The return does not show how many were taken out to be actually served by plaintiffs themselves, but from other sources we learn that the number is very small indeed. It rarely happens that a plaintiff elects to be his own process server without indicating a desire to insult the defendant, a proceeding which certainly ought not to be encouraged by law. In some parts of the country there appears to be a far greater proportion of services by bailiffs than in other parts. In circuits 1 and 37 the bailiffs served all but something under two per cent., while in circuits 11 and 23 they served not quite 50 per cent. This may be explained in more ways than one. One possible explanation is that some bailiffs are more careful and therefore more trusted than others. If this be the case, what we want is more supervision.

WE UNDERSTAND THAT THE GOVERNMENT have not adhered to their idea of postponing, until after the Long Vacation, their appointment to the vacancy in the Lords Justices' Court, and that Mr. Mellish, Q.C., is to be the new judge. Certainly, as a rule, the Chancery bench should be filled from the Chancery bar, but we do not think that the Court of Chancery is otherwise than benefited by being now and then freshened up, as it were, by a first-rate common lawyer. Mr. Mellish is certainly admirable at common law, besides which he bears the reputation of knowing every other kind of law. Altogether the appointment is an excellent one. Of course the new Lord Justice will not take his seat until after the Long Vacation, but the Government will have done very wisely in filling up the appointment at once. It frequently, nay usually happens, when a Queen's Counsel is raised to the bench, that a considerable temporary inconvenience is entailed on parties for whom he has been concerned, and who are suddenly deprived of his services. By making the appointment immediately before the Long Vacation this will be reduced to a minimum.

NEUTRALITY LAWS.

On the 18th of this month Mr. Gladstone stated in the House of Commons that the Government had taken into consideration the recommendation of the Neutrality Laws Commission of 1868, and that it was the intention of the Government to introduce a bill "to secure the more complete and effectual fulfilment of all obligations that may be considered to attach to us in any contingency under the law of nations with respect to ships departing from our ports." In accordance with this statement a bill has since been introduced into the House and printed.

Before examining what alterations in the existing law are required for the more complete fulfilment of the obligation of the law of nations, let us attempt to clear away some of the confusion of thought which is often displayed in discussions upon this subject. The law of nations, or international law, as it is now most generally called, is the law which regulates the relations of sovereign states towards one another, as municipal law regulates the relations in which the citizens of a particular state stand towards one another. For instance, it is a rule of international law that one state cannot enforce its laws against, or exercise any jurisdiction over persons or property within the territory of another state. This carries out amongst states the rule of municipal law which in England is expressed by saying that "every man's house is his castle." A particular course of conduct has, in fact, been marked out by the common consent of nations, to which all states are expected to conform. In this way the idea has grown up that states have certain rights against, and certain duties towards, one another.

These rights and duties, when ascertained and established by unvarying practice, may be stated in the form of laws or rules. The collection of these laws or rules is called International Law, and the duties enforced by them are obligations of international law. These obligations are in many respects vague and undetermined, and they are without that sanction which gives force to municipal law, or law strictly so called. Some writers, indeed, deny that international law is law in any sense, and no doubt it differs much from the law administered by each state within its own territories. Notwithstanding this difference, however, international law has much in common with municipal law. Some of its rules are observed with as much strictness as those of any municipal law; as, for instance, the rule which protects ambas-

sadors. Other rules, again, are frequently broken, or perhaps it would be more correct to say that such rules are not universally assented to. As the general consent of nations is necessary to establish a rule, and as there is as yet no power in existence to create or to compel the observance of a rule of international law, the difficulty is rather to obtain a recognition of the rule than its enforcement. When once recognised — *i. e.*, generally assented to—it is not often broken.

At the present time international law presents an appearance which probably all law has presented at some portion of its early history. Habits and customs exist and are generally followed, but these customs have not the precision and clear definition of more advanced law. There is as yet no tribunal for the enforcement of the customs which may be neglected with impunity by the strong but are binding upon the weak. The public opinion of the civilised world is as yet the only sanction for enforcing international obligations, but that opinion is becoming stronger and more important every day, and as its strength increases the due observation of international law becomes more imperative upon all states. The wilful neglect of international obligations is generally considered a just cause of war.

The sole source of international law is the voluntary usage of nations—the municipal laws of one state cannot affect other states unless they assent thereto. The usage, however, of even one of the great nations, and therefore, even its municipal law, may have an important indirect effect upon the usages of other states, and so affect the general law of nations. If the bill now before the House of Commons is passed, it will have a wider scope than ordinary municipal law, and it can hardly fail to have some influence upon the general law of nations.

The bill relates exclusively to that branch of international law which relates to the duties of neutrals. It is with this part of the law that England is now especially concerned, and it is for the better observance of these duties that the law is to be amended. In approaching this subject it must be remembered that neutral states have a twofold duty—first the negative duty of abstaining from giving assistance to either belligerent in their corporate capacity as states; secondly, the positive duty of restraining persons within their territory from using the country as a base for hostile operations against either belligerent. The neutral must, therefore, prevent the enlisting of troops or the fitting out of military or naval expeditions against either party to the war. The subjects of neutral states are not restricted from carrying on trade of all sorts with either or both the belligerents subject only to this, that contraband of war, such as arms, gunpowder, and other munitions of war, and goods of any kind sent to a blockaded port, may be lawfully seized by the other belligerent, and the neutral has no ground of complaint. The neutral is not bound to prevent trading in contraband of war or with blockaded ports, although it may do so if it thinks proper, provided only that any restrictions apply equally to both belligerents. Each belligerent has, on the other hand, the right of searching neutral vessels upon the high seas for the purpose of intercepting contraband or cargoes bound for a blockaded port, and the belligerent may lawfully seize and confiscate such goods.

At the present moment the most important subject the Government has to deal with is the fitting out armed vessels in England. The broad rule is clear that it is a breach of neutrality to allow vessels to be armed and equipped in neutral ports, so that on leaving the neutral waters they are ready to commence hostilities. The precise extent of this rule, however, and its accurate definition have not yet been clearly settled, and to this point we shall have to recur hereafter. In order to prevent a violation of this rule it is necessary that it should be recognised by municipal law. This question has been dealt with in England by the Foreign Enlistment Act (59 Geo. 3, c. 69), passed in 1819. The second section of this statute forbids the serving of English subjects or inducing them to serve in the military and naval service of foreign states without a licence. The sections immediately following deal with subjects of minor importance until section 7, which is the one which now chiefly concerns us. That section provides that if any person within the British dominion shall, without leave, "equip, furnish, fit out, or arm, or attempt or endeavour to equip, furnish, &c., &c., or procure to be equipped, &c., or shall knowingly aid, assist, or be concerned in the equipping, &c., of any ship or vessel with intent or in order that such ship or vessel shall be employed in the service of" any foreign state as a transport or store ship, "or with intent to cruize or commit hostilities" against any foreign state with whom his Majesty shall not be at war; or shall issue or deliver any commission for any state or vessel to the intent that such ship or vessel shall be employed as aforesaid, every such person shall be guilty of a misdemeanour and punishable as therein specified, and officers of the customs, excise, and navy are authorised to seize such vessels in the same way that they are "empowered to make seizures under the laws of customs and excise, or under the laws of trade or navigation, and such vessels shall be forfeited." Section 8 is directed against aiding the warlike equipment of foreign armed vessels.

There has been only one decision upon this statute, viz., *The Attorney-General* v. *Sillem*, or *The Alexandra* (12 W. R. 257), where it was held by the majority of the Court of Exchequer that the mere building of ships, as distinguished from equipping, is not within section 7. This statute was much discussed during the late American war, and in 1867 a Royal Commission was issued "to inquire into and consider the character, working and effect of the laws of the realm available for the enforcement of neutrality. . . . and to report whether any and what changes ought to be made in such laws for the purpose of giving to them increased efficiency and bringing them into full conformity with our international obligations." In the following year the commissioners made the report to which Mr. Gladstone referred. In our next article we shall examine this report and the bill of the Government, which is chiefly based upon the recommendations of this report.

THE JUDICATURE COMMISSION AND THE COUNTY COURTS.

"Let not thy left hand know what thy right hand doeth" is a maxim which may be misapplied; and the Judicature Commission have misapplied it. Soon after the supplementary commission was issued which empowered them to inquire into the working of the county court system, they appointed, as our readers know, a committee of their own number to take evidence and collect materials from which they might arrive at a conclusion upon this subject, and certainly no course could have been more reasonable than this. But this is not all that they have done. Two documents have been brought into the world at the same moment, under the auspices of the Commission: a memorandum of the committee, laying down certain principles and recommending certain changes with respect to the county court system; and a draft bill to consolidate and amend the law relating to county courts, framed upon wholly different principles from those of the committee, embodying none of the changes which they recommend, and containing changes of great importance of which they know nothing. This is a result hardly likely, we fear, to increase public confidence in the Judicature Commission. We commented at some length last week upon the one document, the committee's memorandum; we have a few words now to say upon the conflicting document, the draft bill.

The committee's recommendations are framed upon the principle of reducing the ordinary county courts to comparative insignificance, and creating a few provincial courts to do all the work now done by the county courts, and most, if not all, of that now done by the

superior courts. The principle of the bill is to have the county courts constituted precisely as they are, merely altering their procedure in some smaller details, but at the same time to increase their jurisdiction enormously. In accordance with this fundamental difference of view, it will be found that the bill has not a word about reducing the importance of the ordinary courts or lowering the salaries of the judges. On the contrary, it expressly leaves these things unchanged. It has nothing about provincial judges at high salaries; nothing about abolishing the office of registrar except in the central courts; nothing about re-arrangement of circuits. Upon the question of default summonses it is true that the two parties are substantially agreed; both would extend the system to all cases above five pounds. But even here the only practical suggestion of the committee—namely, to print such summonses on paper of a particular colour—is not adopted in the bill.

On the other hand, there are several very important points on which the committee have not committed themselves to an opinion. They have not said whether the jurisdiction even of their amended county courts should be unlimited or whether it should have a pecuniary limit, and, if so, what that limit should be. This is the very point upon which the bill is boldest. It proposes to make the jurisdiction of the county court unlimited as to amount in common law, equity, and admiralty. And it would fix the compulsory limit—that is to say, the amount than which if less be recovered in a superior court the plaintiff is to lose his costs—at £50. Another point as to which the committee have been silent, and, we think, rather strangely silent, is the question of establishing one uniform method of procedure in place of the several distinct systems now in use in the courts. The bill would establish such a uniform system. And if we had space to compare the two in detail, this other inconsistency between the memorandum of the committee and the draft bill would be even more apparent.

But we will consider this bill upon its own merits. It is in the main a consolidation bill, bringing together into one Act nearly all the provisions of the County Court Acts, Rules, Orders, and the like. And so far, if adopted, it would be a great improvement on the existing state of things. A carefully drawn consolidation Act is generally the most useful of all Acts. We may observe, however, that this bill exactly reverses the course now usually taken in such cases. The plan always taken of late has been to let the Act deal in generalities, leaving all details of practice to be worked out by rule. This bill, on the other hand, seeks to embody in itself nearly everything that has hitherto been dealt with by rule.

Again, the bill contains a number of smaller changes in the rules of evidence to be applied in the county courts, many of which would no doubt be changes for the better, as, for instance, that which would dispense with the necessity of a notice to produce documents in the possession of the opposite party. And there are clauses aimed at the fusion of law and equity in the county courts. But we shall not examine either of these classes of clauses at present, for two reasons: first, because the bill in its embryo state is too far off from becoming law to make detailed criticism of any importance at present; and secondly, because it seems to us evidently the better course to wait and see how all such matters are dealt with in the new Supreme Court, and then try and assimilate the law of the county courts as far as may be to that of the superior courts, rather than adopt the course which this bill suggests.

But the real importance of this bill lies in what it proposes with respect to jurisdiction. The evils which have to be met are easily stated. The efficient and satisfactory determination of causes is at present too slow and too expensive, and we want to make justice, as far as possible, cheap and rapid, but, at the same time, efficient. To attain this end three courses have been suggested. One is to transfer to the existing county courts much, if not most, of the legal business of the country. The second is to establish a new class of courts at the greater provincial centres, resembling in their constitution and dignity the superior courts; this is what is called the provincial system. The third is to maintain the existing system in principle, but doing everything that can be done to cheapen, hasten and simplify proceedings in the superior courts for the trial of real controversies, leaving the county courts to discharge their original duties as small debt courts.

This third course is the one we have always advocated. We have shown in many detailed instances how proceedings in the superior courts might be cheapened; and it is our firm conviction that a far larger proportion of the expenses of a cause than is generally suspected are rendered necessary solely through defects of procedure easily remedied. And as to delay in the trial of causes, we believe this to arise almost entirely from want of organisation, and of a due economy of judicial force.

The second course proposed, the provincial system, is substantially that proposed by the committee. We disapprove this plan, because we think it unnecessary and expensive, inevitably involving serious evils. It would, among other things, break up the unity of the Bench, and so distort the uniformity of decision and certainty in the law. This course, however, would be incomparably preferable to the other which has been proposed—namely, the transfer to the existing county courts of a large quantity of the legal business of the country. Yet this is the plan proposed by this bill; and a more mischievous proposal has never, we think, been made.

It is easy to state in a very few words the conditions absolutely essential to the efficiency of a tribunal which is to try substantial questions in litigation.

First, you must have a highly qualified judge. Some of the county court judges are eminently so, but a very large number are not. There are sixty county court judges; they are chosen from the Bar; their salary is £1,500 a-year. We have no hesitation in saying that, even if the selection were always made with a sole desire to secure the fittest man, which has not always been the case, it would be impossible to find sixty judges competent to try difficult questions of law and fact and willing to accept £1,500 a-year for their work.

Secondly, you must have a competent jury in cases fit to be tried by a jury. The jury system in the county courts is confessedly a ridiculous failure. Nor can it be otherwise. Even five fit jurymen could not be found in every place in which a county court sits.

Thirdly, you must have an efficient body of advocates, especially for the argument of questions of law. This, of course, is always attainable under any system in a few large places. But to suppose that such a body, drawn from any branch of the profession, could attend the five hundred and twenty-one county courts scattered over England and Wales would show a degree of ignorance which we shall certainly not presume in our readers.

Fourthly, you must have ready access to the judge at all reasonable times for the purpose of interlocutory applications. This cannot be had in the case of a judge who lives in London, except while he is spinning round from court to court on his circuit.

Fifthly, you must have power in your judge to reserve questions of law for deliberate argument and decision before a bench of judges. This cannot be had under the county court system.

Sixthly, you must have a condition of surpassing importance, publicity and the full light of day. We do not mean the publicity which comes of an ignorant mob in a gallery. We want that daylight and publicity which comes of a judge having to administer justice perpetually in the presence of qualified persons, whose knowledge and judgment he must respect, and whose criticism he cannot but regard. This kind of publicity is incomparably the greatest security for good conduct in judge and trustworthy administration of justice. No

other control has even yet been found effectual in this country. This control in the case of the superior courts is maintained in great efficiency by the perpetual presence of the Bar and of the attorneys practising in those courts. And the voice of the public press, expressing as it does in such matters the opinions of men well qualified to judge, contributes to the same end. Can anything like this be found in the five hundred and twenty towns and villages where the county courts sit? Manifestly not. And without this felt responsibility to enlightened public opinion—the opinion, that is, of those qualified to judge—we say deliberately that we would not trust any Court that ever sat.

The county courts are radically deficient in every qualification necessary to secure the satisfactory trial of important questions of law or fact, and any attempt to force such work upon them can only end in failure. And further, it must never be forgotten that every case of complication or length sent into a county court tends to spoil its efficiency for its real work, the recovery of small debts, for it blocks the way, creates arrears, delay, and uncertainty. Already this evil has been felt, and if the proposed bill were to pass the evil would become gigantic. The fact is, penny steamers are most useful things on the Thames, but if we were to listen to some ambitious captain, and send half a dozen of them across the Atlantic, we should wreck the boats and drown the passengers; we should likewise disarrange the traffic on the Thames. This is exactly how it is with the county courts.

AMERICAN INVESTMENTS.

It has recently become quite customary to warn Englishmen against investing in American securities, and to denounce the American Courts as either unwilling or incompetent to afford adequate redress to injured creditors. The case of the Erie shareholders is held up *in terrorem* as an example, and people are thus deterred from making safe and profitable investments, when the exercise of a little discretion would suffice to discriminate between secure and precarious methods of obtaining fair returns for outlay. Before entering into the subject of the various classes of American securities it is well to recall the peculiar features of the system under which the laws are administered in America, as much confusion prevails in the public mind on this point.

In every State in the United States there are two sets of Courts, entirely distinct from each other. One set is established by the general Government at Washington and the other by the State Governments. The former are called United States Courts, or more commonly Federal Courts. The judges are appointed for life by the President and Senate at Washington, and are thus totally independent of popular feeling, and the appeal from their judgments lies to the Supreme Court of the United States at Washington. Their jurisdiction extends to all international questions and questions arising under the laws of the *general* Government—that is, the laws of the United States as distinguished from the laws passed by each separate State. But the main point of interest is this, that to avoid any prejudice or partiality of the State tribunals in favour of their own citizens the Federal Courts have jurisdiction over all suits brought by foreigners against the citizens of any State within that State.

Now these Federal Courts have at all times been presided over by men of unimpeached character and integrity, and from the nature of the appointments and the permanency of their tenure of office the judges are quite as trustworthy as those of any country.

The second set of Courts are those which each State of the Union establishes for itself, with all grades of jurisdiction, including Supreme Courts and Courts of Appeal. The confusion in England arises from the use of these names as applied to the State tribunals. When we are told that a certain decision has been rendered in New York by the Supreme Court, we jump at once to the false conclusion that the Supreme Court of the United States is meant. We are specially liable to be misled by the absurd nomenclature of the State of New York in this respect. What they call their Supreme Court is really a system of district or county courts scattered over the State, all subject to the appellate jurisdiction of the Court of Appeals, which sits at Albany, the capital of the State. The famous or infamous Judge Barnard, of Erie notoriety, is one of these miscalled supreme judges, although his jurisdiction really extends only to the city of New York, not the rest of the State.

In much the larger part of the Union the State judges are quite as incorruptible and independent as the Federal judges, but by a deplorable excess of what are supposed to be democratic principles, an experiment was made some years ago in a certain number of the States, and the judges were made elective by the people. To add to the mischief of such a system the tenure of office was fixed at a few years, generally four or five, so that not only was the election originally dependent upon popular favour, but the judge was constantly tempted to pander to popular passion or prejudice in order to secure re-election. It is of course superfluous to comment on the inevitable results of so pernicious a system, of which Judge Barnard is one of the choice fruits, matured under the genial warmth of friendly sympathies entertained in his favour by the lowest classes of Irish and German emigrants, who labour in the docks and quays of New York. Our purpose is attained when we point out that foreign creditors are entirely independent of these State tribunals, and have an unexceptionable recourse to the Federal Courts, on which implicit reliance may be placed.

Recurring now to the subject of investments, the first remark to be made is the singular absence of discrimination observable in the writings of those best informed on the subject (such, for instance, as the able writer of the financial columns of the *Times*) between investments in the *shares* of American companies and in their *bonds* or *debentures*. We may say at once that we would strenuously dissuade any Englishman from becoming a shareholder in an American company, for the simple and obvious reason that he thereby becomes a *quasi partner*—that in companies, as a general rule, the majority must govern, and the minority are powerless to help themselves. We know here at home how excessively difficult it is for the Courts to assist unfortunate shareholders against the action of directors when supported by a majority of votes, and it appears to us rash in the extreme as a mere matter of investment to become a partner in an enterprise in a foreign country. This is the position of the Erie shareholders. The railway company is a *local* corporation, established by the laws of the State of New York, not of the General Government, and Englishmen have been imprudent enough to become partners with such men as Gould and Fisk, and are now paying the price of their rash confidence. We do not mean by this that they are without remedy, for we cannot for an instant doubt that their wrongs will be redressed, so far as that is possible, by the Superior Courts of Justice, either State or Federal. But the position of a creditor, such as a bondholder or debenture-holder, is entirely different. It is in his power instantly, without combination with any one else, to bring his suit in a Federal Court, and to enforce payment of his debt with as much promptness and certainty as he could by a suit out of one of our Superior Courts; or if his bond be secured by a mortgage or trust-deed he may file his bill in chancery in a Federal Court just as he could do in England, and claim in behalf of himself and all other creditors jointly interested the foreclosure of the mortgage or the execution of the trust-deed. In this very Erie Railway case, while "the ring" or "Jay, Gould & Co." have set shareholders at defiance and plundered them at will, *they have never dared to make default towards a bond-holder*, knowing the immediate and inevitable result.

If this distinction between shares and bonds be kept constantly in view the difficulty in choosing safe invest-

ments in the United States is greatly restricted. When a bond or debenture is offered the first question to be asked is whether it is secured by a *first* mortgage or trust-deed. The mode of foreclosing mortgages on railways in the United States is shortly this: Whenever a property is offered for sale at the suit of a second, third, or fourth mortgagee, as the case may be, it is sold upon the terms of its remaining subject, in the hands of the purchaser, to all mortgages prior in rank to that of the pursuing creditor. It thus becomes a matter of perfect indifference to a first mortgagee what proceedings are taken by puisne incumbrancers. They affect his rights in no way. He is not involved in liquidation proceedings, nor is he called into court to claim his dues out of the proceeds of the sale, for the sale does not take place unless the bid has been in excess of the first mortgage, and the purchaser pays only the surplus, retaining in his own hands the amount of the first mortgage. The first mortgagee thus remains entirely free from any involvement in litigation, unless he chooses to act for himself in forcing a sale under his own security, upon default of payment of principal or interest. The registration laws which universally prevail in the United States render it a matter perfectly simple and easy to ascertain the rank and priority of mortgages, for none are valid without registry.

If, then, an Englishman desirous of obtaining a good interest for his money will take care to buy no shares, and confine himself to *first* mortgage bonds, he cannot run any of the risks which are depicted in such alarming colours by some of our public journals. Of course the intending investor must satisfy himself that the property mortgaged is of sufficient value to render the payment of the debt secure. Our remarks will scarcely benefit men sanguine or careless enough to lend their money even on first mortgage on railways projected in wild districts of country, where not a pound of iron has yet been placed on the road, nor perhaps a mile of road-way graded. But a man who conducts his business with ordinary prudence and who inquires into the value of the security need not be deterred from American investments by any fear of inadequacy of legal remedies for the recovery of his money.

The warning against investing in any bonds secured by puisne incumbrances is based on the consideration that it is always in the power of the first mortgagees to foreclose and force a sale in case of default. So it might well happen that property amply sufficient in value to satisfy first and second mortgages might be sacrificed at a forced sale and leave nothing for second mortgagees unless they combined to pay off the first incumbrancers, or to buy the proyerty at the forced sale. Such combinations are readily formed in America, where the people seem endowed with a natural genius for associated action, but with us there are so many difficulties in the way of uniting a scattered body of bondholders into a compact union of men devising measures in concert for the protection of their common interests, that a prudent investor ought not to place his money at the hazard of such contingencies.

On the whole, therefore, it may be concluded that it would be unwise for an Englishman to buy shares in American companies, or bonds secured by mortgage of inferior rank; but that where the property mortgaged is of sufficient value to cover the amount lent upon it, an investment in bonds of a railway or other company secured by first mortgage is as safe an investment in America as it would be in England, with the advantage of being recoverable by process of law more cheaply and expeditiously than in our own courts.

ENCLOSURES.—A Parliamentary return shows that since the passing of the Enclosure Act of 1845 there have been 856 enclosures in England and Wales. The total extent is 540,358 acres; 370,848 acres were subject to public allotments for recreation grounds or cottage gardens. The area actually allotted amounts in the whole to 1,633 acres for exercise and recreation grounds, and 2,113 acres for the labouring poor.—*Times.*

RECENT DECISIONS.

EQUITY.

MISDESCRIPTION OF TRANSFEREE.

Re Smith, Knight & Co., Battie's case, M.R., 18 W. R. 620.

The decision in this case that the register could not be rectified upon the application of the liquidator is owing to the fact that the directors had, under the articles of association, no power to refuse to register any transfer if they did not approve of the transferee. Parties are not entitled, when the facts come to be known, to retain any advantage acquired by a misdescription which the Court regards as fraudulent; but in this case the directors could not have refused to register if they had known all. In an otherwise similar case, where the directors had the power, Vice-Chancellor James held that the name of the transferee ought to be removed from the register of members and the list of contributories, and the name of the transferor substituted, on the ground that the deception vitiated the transaction (*Payne's case*, L. R. 9 Eq. 223). Where there is such a power, and a misdescription, either of the transferee or of the consideration, or of both, as in *Battie's case*, and the directors are thereby deceived, they have a right to say that they will have the transaction set aside (*Williams's case*, L. R 9 Eq. 226 n.); and that right passes to the liquidator on the commencement of the winding-up. See, as to this, the observations of Lord Justice Giffard in *Kintrea's case* (18 W. R. 197, L. R. 5 Ch. 95).

In *Poole* v. *Middleton* (29 Beav. 646); *Bermingham v. Sheridan* (33 Beav. 660), Lord Romilly observed that even where directors have a discretion to refuse a transferee, they must exercise it reasonably, and that a mere capricious refusal would be controlled by the Court. But in a later case his Lordship expressed an opinion that, apart from any express power, directors have in their general function an inherent ability to refuse to register a transfer where, in their judgment, the same will not be for the benefit of the company (*Weston's case*, 16 W R. 887). This latter position, however, is not maintainable (S.C., on appeal, 17 W. R. 62, L. R. 4 Ch. 20). It was disposed of in the court of appeal by the identical reason advanced by Lord Romilly in the two former cases in support of the other principle, viz., that a limited company is a sort of partnership from which the members can retire at once and get rid of all their liabilities (except the qualified liabilities of past members) by disposing of their shares, provided the disposal be out and out, and no interest be retained; and this appears to be the reason why such a transaction as that in *Battie's case* will hold water, provided the transfer be out and out, in the absence of the power to refuse to register which well-drawn articles of association ought to contain.

RESTRICTIVE STIPULATIONS—NOTICE.

Carter v. *Williams*, V.C.J., 18 W. R. 593.

A plot of land had been sold with the stipulation that no building to be erected thereon should be used for a beerhouse. The peculiarity of the case was that the foregoing stipulation was contained in a separate piece of paper, and was not recited in the conveyance. The purchaser sublet to D. as a yearly tenant, without notice, and he opened a beerhouse upon the plot. D. had no actual notice, and the Vice-Chancellor, holding that as the covenant did not appear upon the title-deed, D. could not be fixed with constructive notice, dismissed with costs, as against D., the bill which prayed an injunction against both D. and the purchaser.

Yearly tenants do not as a rule ask to see their lessor's title. The *ratio decidendi* seems to have been that if D. had seen everything which appeared to be necessary for him to see he would not have acquired any knowledge of the restrictive covenant. The doctrine of constructive notice, as the Vice-Chancellor observed, has been already carried far enough. A purchaser who does not inquire

into his vendor's title is affected with notice of what appears upon it. This rule applies equally to a yearly tenant as to the purchaser of a greater interest (*Wilson v. Hart*, 14 W. R. 748, L. R. 1 Ch. 463). Clearly then a yearly tenant ought to inquire whether the property is subject to any restriction. If the restriction as to the use of the premises had been recited in the deed of conveyance to D.'s lessor, D. would unquestionably have been bound by it, if he had made no inquiry.

On the Duty of Liquidators under Supervision to Bring in their Accounts.

Re Anglo-Romano Water Company, Ex parte Wright, L.J.G., 18 W. R. 777.

We are glad to see that the Lord Justice Giffard quite adopted the opinion of the Master of the Rolls that when a company is winding up under supervision the liquidator's duty is to bring in and pass his accounts at reasonable intervals, and that any contributory is entitled to require him to do so. The question whether the applicant was or was not a contributory, is one into which we need not enter; but inasmuch as it was decided that he was, his right to call on the liquidator followed as a matter of course. We do not see why a liquidator should have more indulgence shown him in this respect than a receiver. "Of all people," said the Lord Justice, "I do think that those who ought most easily to be called to account are liquidators of public companies." It is difficult, indeed to see what ground a liquidator can have for resisting an application for his accounts when he has nothing to conceal, unless the application be made with the object of causing annoyance or delay.

Costs of Preparing Lease.

Re The Ipstone Park Company, Ex parte Brough, V.C.J., 18 W. R. 285.

This case affords us an opportunity of recapitulating the law on a point of practice of much importance to solicitors.

There is a universal custom in conveyancing matters that a lease is prepared by the solicitor of the lessor at the cost of the lessee; similarly, the preparation of a mortgage deed (including the cost of examining the validity of the mortagagor's title and the sufficiency of the property in point of value), though conducted by the solicitor of the mortgagee, is paid for by the mortgagor; and similarly in other conveyancing matters. In practice these costs are generally paid by the lessee or mortgagor direct to the solicitor who did the work; in the case of a mortgage, for instance, the mortgagor's solicitor, being usually entrusted by the mortgagee with the money to be advanced, hands it over to the mortgagor, *minus* the amount of his own bill.

But the solicitor cannot, merely upon the above circumstances, compel the payment from the lessee or mortgagee, because there is no priority of contract between them (*Rigley v. Daykin*, 2 Y. & J. 86). The lessor or mortgagee from whom he received his instructions is liable to him, and after paying him can recover the amount from the lessee or mortgagor (*Grissell v. Robinson*, 3 Bing. N. C. 10). For the same reasons a mortgagee's solicitor has no lien on the mortgagor's deeds, arising from his having been employed by the mortgagee to inspect them, &c., *Pratt v. Visard* (5 B. & Ad. 808), a case relating to this latter phase of the subject, affords a good exposition of the general principle. Plaintiff, an intending mortgagor, sent his deeds to R., the proposed mortgagee, for inspection, saying at the same time, "I shall pay with pleasure all expenses attending the same." R. handed the deeds to his own solicitors. Ultimately the transaction went off, and the plaintiff demanding back his deeds, the solicitors claimed a lien on them for their bill. The plaintiff paid the bill under protest, and recovered the amount from them in this action. Here there was no privity at all between the plaintiff and the solicitors, and the latter were strangers to the express promise which had passed between the plaintiff and R. Whether R. could, after paying the bill, recover the amount from the plaintiff, would be a question depending on the construction of the original agreement between him and the plaintiff. In *Webb v. Rhodes* (3 Bing. N. C. 732), the transaction having gone off, the solicitors of the intending lessor recovered from him, as for work done, the amount of their bill. But it is very important to remember that, though there is a recognised custom as between the two principals as to the incidence of the costs of completed transactions, there is none sufficient to support a claim to be reimbursed the costs of a negotiation which has proved abortive. In *Melbourne v. Cottrell* (5 W. R. 884), a treaty for a mortgage having gone off, and the proposed mortgagee having sued the proposed mortgagor for (*inter alia*) the costs incurred, it was held by Erle, C.J., that there was no custom raising an implied contract on the part of the defendant to produce such a title as should satisfy the plaintiff, or to pay the costs of investigating the title in the event of the transaction going off. Therefore, if a proposing lender wishes to be entitled to his costs in any event, he must stipulate (as is sometimes done) on opening the negotiation, that he shall be repaid, in any event, the expense of investigating the proposing borrower's title.

Similarly the lessor's or mortgagee's solicitor, if he wishes to have a claim directly on the lessee or mortgagor for his costs, must take care to get some retainer direct from the latter. For this purpose anything will be sufficient which proves an understanding arrived at between the lessor's or mortgagee's solicitor and the lessee or mortgagor, that the former is employed by the latter. See on this point *Smith v. Clegg* (6 W. R. C. L. Dig. 9, 27 L. J. Ex. 300).

Having thus fully expounded the principles which govern the claims of solicitors for the costs of preparing conveyances and the like, it only remains for us to notice the facts of the present case, which are exceedingly simple.

A company being in treaty for a lease, instructed their solicitor to prepare a draft; this solicitor wrote to the solicitor of the intending lessor, that in compliance with the etiquette of the profession, he wished to hand the work over to him. The lessor's solicitor accordingly prepared the draft. The company afterwards going into liquidation, he made a claim under the winding-up for his costs, which was disallowed by Vice-Chancellor James, because there was obviously no privity whatever between him and the company. In this case it is very possible that the solicitor who prepared the draft had no claim on anyone.

COMMON LAW.

Practice—Justification Under Judgment which has been Set Aside.

Smith v. Sidney, Q.B., 18 W. R. 628.

The rule laid down in this case is, that an act done under a judgment which is afterwards set aside is not necessarily regarded as if there never had been a judgment—or, in other words, a defendant may justify, under a judgment which does not exist at the time of his plea. The Court will, in these cases, look into the cause for which the judgment was set aside.

If a judgment were improperly obtained—as, for instance, if obtained by fraud—and execution was issued and enforced, and the judgment were then set aside, the party issuing the execution could not rely upon the judgment as any justification of his act. The mere fact, however, that the judgment was set aside would not disentitle the person acting on it to justify under it, but it would be necessary to show that it had been set aside because obtained by fraud. If, on the other hand, a judgment is properly obtained and acted on, and then set aside as

a favour to the person against whom it was obtained, such person could not bring an action for anything done regularly under the judgment.

Smith v. *Sidney* fell under the latter class of cases, and it was held that an arrest of the plaintiff by the defendant upon a judgment obtained by the defendant in another action against the plaintiff might be properly justified under such judgment, although the judgment had been set aside; because the facts showed that the judgment was set aside only as a favour the plaintiff. This point has not been before very clearly decided in any reported case, although the practice seems to have been well settled on the point.

The judgment of Hannen, J., puts the matter very clearly—"The fact that a judgment has been set aside does not deprive the party of its protection, otherwise the plea of *nul tiel record* would be sufficient, but it is necessary to show why it was set aside. The reason of this rule is, that the Court may see from the facts which induced the setting aside whether the party is a wrong-doer."

In this case the trespass complained of was a trespass to the person committed under a *ca. sa.* This precise point cannot arise again in this way since the abolition of arrest for debt (32 & 33 Vict. c. 62), but the same principle applies to cases of trespass to goods, and for these cases this decision is now an authority.

COURTS.

HOME CIRCUIT.

MAIDSTONE.

(Before Chief Justice BOVILL and a Common Jury.)

July 26, 27.—*Norton* v. *Dudlaw.*

This was an action of slander.

The plaintiff was a solicitor practising at Malling, and the defendant was also a solicitor, and clerk to the board of guardians of the Malling Union. It appeared that the board had taken legal proceedings to recover the amount of a surety bond, and the present plaintiff acted as the solicitor for the defendant, the result being that the board of guardians were defeated on a point of law, and became liable for the costs of the defendant in the action. The costs were taxed in due course, and ultimately an execution was put into the workhouse. The slander complained of was a statement made by the defendant at a subsequent meeting of the board of guardians, to the effect that the plaintiff had been guilty of sharp practice, and had been actuated in the proceedings in question by spite. So far from there being any foundation for that statement however, it appeared that the plaintiff had, some three or four weeks before the execution, written to the attorney of the board, asking when the costs would be paid. From some cause, however, which was not explained, this letter never reached its destination.

Denman, Q.C., and *Hayman*, for the plaintiff.

Prentice, Q.C., for the defendant.

BOVILL, C.J., said it was clear that the statement had been made under a misapprehension as to the course that was actually taken by the plaintiff, and there did not appear to be the slightest pretence for saying that the plaintiff had been guilty of sharp practice.

Prentice, Q.C., after conferring with his client, said he felt the force of his Lordship's observation, and was ready to withdraw all imputations upon the character of the plaintiff and to apologise for having made the statement complained of.

A juror was then withdrawn.

COURTS OF BANKRUPTCY.

LINCOLN'S-INN-FIELDS.

(Before Mr. REGISTRAR PEPYS, acting for the Chief Judge.)

Solicitors' clerks as receivers.

July 23.—*Anonymous.*

Mr. A. J. Murray, solicitor, made an application to the Court for the appointment of a receiver under a petition which had been filed by debtors with a view to arrangement of their affairs. It was proposed that a person named Sydney, residing in Fentonville-road, should be appointed receiver in the matter.

The REGISTRAR, upon being informed that Mr. Sydney was a clerk to the solicitor making the application, who also presented the petition, said he did not think he was a proper person to be receiver, and declined to make the appointment.

July 26.—*Re Hochstrasser.*

This was a similar case, in which it was desired to appoint as receiver the clerk to the partner of the solicitor who presented the petition.

Brough, in support of the application said this was an exceptional case. The debtor was a German, and the great majority of the creditors resided abread. The proposed receiver was conversant with the French and German languages, and it would be greatly to the advantage and convenience of the creditors that he should be appointed. Of five creditors resident in England, four had signed a requisition in his favour.

Mr. REGISTRAR PEPYS said he understood that the Chief Judge had disapproved the appointment as receiver of the clerk to the solicitor presenting the petition, but the present seemed to be an exceptional case, and, as the majority of the English creditors desired the appointment, it would be made, to last until after the first meeting.

Solicitors, *Holmes & Holmes.*

COUNTY COURT.

DARTFORD.

(Before J. J. LONSDALE, Esq., Judge.)

May 18, June 22, July 20.—*Santler* v. *Founds and Clark, Friendly Society—Jurisdiction of County Court—Uncertified Society.*

18 & 19 *Vict. c.* 63, *ss*, 41, 44 :—*Held, that under the above provisions the county court has or has not jurisdiction over disputes between friendly societies and their members, according as the rules had or had not been deposited with the Registrar at the time of the dispute.*

Smith *v.* Pryor, 5 *W. R.* 294, *examined.*

The plaintiff was a member of a friendly society. A charge having been made against the plaintiff, of imposing upon the society, a meeting of the members was called, who heard the charge and decided to expel the plaintiff. By the rules the whole of the members of the society should have been summoned to such meeting, but it was proved in evidence that members then in receipt of sick pay from the society, who were by another rule prohibited from being away from home at so late an hour as that on which the meeting was held, were not summoned. Subsequently to the above meeting the rules of the society were deposited with the Registrar of Friendly Societies, under section 44 of 18 & 19 Vict. c. 63, and at a meeting of the society held after the deposit of the rules, the plaintiff attended and was refused admittance to such meeting.

He now claimed to be reinstated. The defendants were the secretary and treasurer of the society.

Mr. C. R. Gibson (Dartford) for the plaintiff.

Mr. W. Venn (New Inn) for the defendant.

Mr. LONSDALE delivered judgment on the 20th of July, as follows:—

John Santler, the plaintiff, is a member of the Perseverance Benefit Society, a society established for one of the purposes mentioned in the 9th section of the 18 & 19 Vict. c. 63 (the Friendly Societies Consolidation Act), whose rules have not been certified by the Registrar, have been deposited with him; and having been excluded from the benefits of such society after such rules were so deposited, he claims by the present proceeding that the defendants, who are respectively the secretary and treasurer of such society, be ordered to reinstate him and to pay and allow him all moneys, rights, and privileges appertaining to a member of such society, or in default of so doing to pay him £50.

The only cause for which the society by their rules have power to exclude a member is "imposing on the society while in receipt of the sick gift," and the rules contain no mode of settling disputes in any other case. The county court, therefore, in all such other cases has jurisdiction,—as regards certified societies, under section 41 of the 18 & 19 Vict. c. 63,—and as regards uncertified societies, provided a copy of their rules has been deposited with the Registrar, under section 44 of the same Act. The Perseverance Benefit Society has never had its rules certified by the Regis-

trar, but a copy of the rules was deposited with him on the 6th April last. At the hearing it was contended that the copy was not deposited till the 2nd May, and that, therefore, upon the authority of *Smith* v. *Pryor* (5 W. R. 294)—the dispute having arisen (as alleged by the defendants) on the 30th March, when a resolution of the society was passed professing to exclude the plaintiff from the society; or as (alleged by the plaintiff) not until the 20th April, a club night, when the stewards refused to admit him into the club room or to receive his contribution money; both dates being prior to the deposit of a copy of the rules—this Court had no jurisdiction.

But I come to the conclusion upon the evidence that the rules were deposited on the 6th April. If, therefore, as contended by the plaintiff, the dispute between him and the defendants arose after the rules had been deposited, I am of opinion that this Court has jurisdiction. The case of *Smith* v. *Pryor*, relied upon by the defendants, was one in which a dispute arose in an uncertified society before its rules had been deposited with the Registrar, and the jurisdiction of the county court to decide such dispute was on that account objected to. Lord Campbell, C.J., is reported in the *Weekly Reporter* to have said: "The county court had no jurisdiction except under the statute; but this is not a society to which that statute applies;" and Coleridge, Wightman and Crompton, JJ., concurred. It is difficult to understand the ground upon which the Court held that the society there in question was not a society to which the 18 & 19 Vict. c. 63, applied. It would appear from the argument which was being used by counsel when he was stopped by the Court—viz., "that the Legislature only intended to confer the privileges given by the Act upon certified societies; but it was forseen that disputes might arise between the deposit of the rules and complete registration, and therefore section 44 was introduced to provide against that contingency. It could not have been intended that these provisions should apply to uncertified societies"—as if the Court thought that the Act applied only to certified societies; that is, that no society, unless certified at the time of making application to the county court, was within the meaning of the Act, even although its rules had been deposited with the Registrar before the dispute. Of course if the statute only applies to certified societies, the county court has no jurisdiction in this case. But I do not think that can have been the ground of the decision, as the words of the 44th section clearly contemplate others than societies, the rules of which are required to be certified, and the objects of which are specified in section 9. In addition to such societies, it mentions societies "for any purpose which is not illegal." Therefore, the only other apparent ground of the decision in that case is that the society was not one to which the statute applies, because its rules had not been deposited with the registrar at the time when the dispute arose.

Taking this latter to be the ground of the decision (and it was the one relied upon for the defendants at the hearing), did the dispute, the foundation of the present application to this Court, arise after the deposit of the rules with the Registrar? I am of opinion that it did. The dispute which was intended to be decided by the special meeting of the 30th March was the alleged imposition on the society by the plaintiff while in the receipt of the sick gift. A majority of the members summoned to that meeting decided that the plaintiff was guilty, and that he should be excluded. By rule 12, however, the whole of the members are required to be summoned before a member can be excluded. This was not done in this case, the plaintiff's expulsion was, therefore, a nullity, and he still remains a member. If the rules of the society had been deposited with the registrar at the time of the meeting, and all the members had been summoned, the decision of the majority of the members present having found him guilty, and the rule making such decision final, I doubt whether this Court could have interfered. But afterwards, on the 20th April, a club night, the plaintiff being still a member of the society, the stewards refused him admission to the club room, and declined to receive his contribution money, telling him that he was no longer a member of the society. It is on this account that the plaintiff now applies to this Court for relief, and I think I have power and to grant it, he being still a member of the society, there being no evidence before me of his having been guilty of the only act which, under the rules of the society, would justify his expulsion (viz., imposing on the society while in receipt of the sick gift), beyond his own admission that he was one day found cleaning one of his own windows, which in my opinion, as I intimated at the hearing, could no more support such a charge than if he had been found brushing his own clothes. The order of the Court is therefore that the defendants pay and allow to the plaintiff all the moneys, rights, and privileges appertaining to a member of the Perseverance Benefit Society, or in default of so doing, pay him the sum of £50. No objection was made to the amount of this sum at the hearing, and it appearing to me to be based upon a fair calculation, I see no reason to reduce it. I also order the defendants to pay to the plaintiff his costs.

APPOINTMENTS.

Mr. Samuel George Johnson, solicitor, and Town Clerk of Faversham, in Kent, has been elected Town Clerk of the borough of Nottingham, in the room of Mr. William Enfield, who has resigned, after holding the office for twenty-five years. Mr. Johnson was admitted in 1854, and was a member of the Town Council of Faversham, having twice filled the office of mayor of that borough. He afterwards became Town Clerk, on the resignation of the late Mr. John Phillips, and also filled the office of Clerk of the Peace for Faversham, which appointments will be rendered vacant by his transfer to Nottingham. Mr. Richard Enfield has been appointed to act as Deputy Town Clerk of Nottingham, until Mr. Johnson can enter upon his duties.

GENERAL CORRESPONDENCE.

Vestry Meetings.

Sir,—I should feel much obliged if you would favour me with answers to the enclosed questions in the *Solicitors' Journal*.

July 18, 1870. Inquirer.

In the town of C. a vestry meeting has lately been held in consequence of the resignation of the organist of the parish church.

There were about forty candidates for the vacant office, and the vestry appointed a committee to consider the merits of the several candidates, and to report thereon at a future meeting, with a view to the selection and appointment of one of the candidates.

The minister and churchwardens were among the members of the committee.

The adjourned vestry for receiving the report of the committee has just been held after notice, of which the following is a copy:—

"Notice is hereby given, that an adjourned vestry meeting will be held in the parish church of C. on Thursday, the 14th instant, at eleven o'clock, to receive the report of the committee, and to take such steps as may be deemed proper for the appointment of an organist.

"And notice is hereby further given that an offer made by Mr. S. to the C. Highway Board to sell to the parish a portion of the premises in the market-place, lately occupied by Mr. P., for widening the pavement, will be laid before the meeting.

"Dated July 12, 1870."

(Signed by the Churchwardens.)

It will be seen that another object was introduced in the notice.

A church-rate has been granted in the parish (from which the organist's salary is paid) and the church-rate is paid by many of the ratepayers; but the minister is not rated and pays no church-rate, and some ratepayers refuse (as any ratepayer may do under the 31 & 32 Vict. c. 109) to pay the church-rate.

The minister attended the adjourned meeting, and took the chair as an assumed matter of right, which proceeding was objected to by many persons at the meeting as well on expressed general grounds—inasmuch as it was alleged the minister is not an integral part of the parish but only a mere individual of the vestry—as on expressed special grounds; inasmuch as, it was alleged, the fact of his not paying church-rates disqualified him from voting and from taking the chair (unless elected to it) at meetings on church-rate matters, and that the vestry meeting being for two objects, what might possibly be right for one might not be right for the other.

Other persons supported the minister's claim to the chair on the alleged ground that the vestry was an ordinary one.

Your opinion would oblige—

1st. Whether under the "Compulsory Church Rates Abolition Act, 1868, or under any other Act or sufficient legal authority the minister who does not pay church-rates can claim as a right to preside and to vote in vestries at which matters regarding the application of church-rates are discussed and to be decided?

2nd. Also, whether at ordinary vestries there is any ground for the claim of the minister to take the chair as a right, seeing that in many Acts of Parliament (such as the Watching and Lighting Act, 3 & 4 Will. 4, c. 90) references are made to vestries electing a chairman, which would hardly be necessary if the minister were really, in virtue of his office, vestry-president?

[It is no part of our business to answer cases for opinion, but we will remind this correspondent that the minister has by common law, an undoubted right to preside at vestry meetings *virtute officii*, though exceptions appear to have been caused by 3 & 4 Will. 4, c. 90, and some similar Acts. The Compulsory Church Rates Abolition Act is irrelevant to the matter.—Ed. S.J.]

THE LAW LIST—ACADEMICAL DEGREES.

Sir,—If you have any voice in the arrangements of the *Law List*, may I ask your attention to the following perhaps rather minor point in connection with the list of attorneys and solicitors.

When looking through the list I occasionally observe after a name some such indication of a university degree belonging to it as is conveyed by the letters M.A., B.A., LL.B., &c., &c. I happen myself to be a Cambridge M.A. but it has always appeared to me that unless it were the general usage to add the degree to the name it is rather pretentious, if not coxcombical, in persons to do so. It would be easy for the publisher to add degrees in every case by reference to the Incorporated Law Society's records; whether it be desirable or not may be a question, especially as no such addition is made in the case of barristers, a larger number of whom are university men.

All I venture to suggest is that either no such additions be made at all, or pains be taken to ascertain all the cases where the right to have them exists. I believe the number of instances where the degree has not been added through a feeling akin to my own is very considerable.

July 27. A LONDON SOLICITOR.

[We have no voice in the arrangements of the *Law List*, but we entirely agree with "A London Solicitor" that if degrees are inserted at all, they should be inserted invariably, and for both branches of the profession. To go no further than the statements forwarded by a few individuals is gross neglect.—Ed. S. J.]

PARLIAMENT AND LEGISLATION.

HOUSE OF LORDS.

July 23.—The *Life Assurance Companies Bill* passed through committee.

The *Law of Evidence Further Amendment Act* (1869) *Amendment Bill* was read a third time and passed.

The *Married Women's Property Bill* was read a third time and passed.

Contraband of War.—In reply to a question by the Earl of Malmesbury, whether horses are contraband of war, Earl Granville said the Government could not attempt any definitions of what is or is not contraband of war. That question, as to horses, coal, timber, sails, rope, and various other articles, must depend on the destination and a thousand circumstances which cannot be defined beforehand; the question could only be decided in the Prize Court of the captors.

July 25.—The *Irish Land Bill.* The Commons' re-amendments were finally agreed to, excepting that one or two verbal alterations were made.

The *Judicial Committee of the Privy Council Bill.*—Lord Romilly took occasion to insist, on the third reading of this bill, on the necessity of appointing the best judges whose services could be secured. There were three modes of obtaining judges. The person of the greatest experience might be selected and paid the price necessary for what might be regarded as his adequate remuneration. Another mode was to get the cheapest man, and a man of that kind might be got at a very low rate, but he would have to be subjected to a severe examination to show that he was at all fit for the discharge of his duties. Again, a person might be selected to fill the office of judge who had failed in his profession; but the very worst judges would be those who were selected from that class. He observed that a proposal had been brought under the notice of the other House for increasing the pay of her Majesty's Ministers, and he, for one, did not think any of them were overpaid; but there was no doubt that if their places were put up to auction persons would be found for much smaller salaries to undertake their duties. Then, however, would arise the question whether they would be at all fit to discharge those duties. He, for one, was opposed to anything like parsimony and niggardliness under such circumstances. It was of the greatest importance, not only that we should get the best judges, but also that they should be able to gain the confidence of the public by showing that they had previously gained the confidence of their clients, and occupied a considerable position in the legal profession. A standing of so many years would not be a proper qualification. Indeed, it would be better to insist upon a money qualification, and say that no man should be appointed a judge who had not made £3,000 or £4,000 a-year by his profession. In conclusion, he appealed to the Lord Chancellor to make this bill an experimental one, and confine its operation to two or three years, at the expiration of which period we should see what results it had brought about.—The Lord Chancellor repelled the accusation that he was endeavouring to get money out of the appointment of judges. He proceeded to point out that there were often circumstances connected with an office which rendered it a desirable one apart from the mere question of salary. It had been an almost invariable custom that a judge, after fifteen years' service, became an *ex officio* member of the Judicial Committee, and the object of the bill was to give to such judges £500 a-year, in addition to their present salary.—The bill was read a third time.—On the question that the bill do pass, Lord Cairns moved a clause limiting the operation of the bill to the 1st of January, 1873. The amendment was negatived by a majority of 27 to 16, and the bill passed.

July 26.—The *Settled Estates* (*Mansions*) *Bill* passed through committee.

The *Juries Bill* passed through committee.

The *Stamp Duty on Leases Bill* was read a third time and passed.

July 28.—The *Life Assurance Companies Bill* was read a third time and passed.

The *Clerical Disabilities Bill.*—Committee.—Earl Beauchamp opposed, on the ground that the measure had been insufficiently considered, that clergymen were already eligible for admission to the bar, and that young men would take orders with too little reflection if they were able at pleasure to resume the status of laymen.—The Bishop of Gloucester, in seconding the opposition, urged that the only civil disabilities under which clergymen laboured —ineligibility for parliamentary or municipal offices—might, if desirable, be removed in an easier manner than the bill proposed.—Lord Houghton said the bill was one of great importance, both to many excellent and respectable persons and to the Church, and he believed that if their lordships allowed the bill to pass they would do a service to the Church itself.—The Earl of Carnarvon said the bill was one which completely altered the status of the clergy, and the House ought to think twice before proceeding with such a measure at this period of the session, when it could not possibly receive the consideration it deserved. Consideration by a select committee would be the best it could receive, and that was now out of the question.—The Bishop of Llandaff trusted that their lordships would proceed with the bill.—The Bishop of Ely thought their lordships should pause before they passed the bill.—On a division a majority of 52 to 29 were for going into committee.—The House then went into committee, and the first six clauses were agreed to.—The Bishop of London moved the omission of clause 7.—The Bishop of Llandaff supported the clause, observing that it would obviate in some measure the objection which had been taken to the bill, that it would operate in such as the question of the delibility of Holy Orders, inasmuch as a clergy-clause provided that the archbishop might

man who had resigned without re-ordaining him. There were two safeguards provided by the bill. In the first place, the archbishop was required, before re-admitting such a young man to the ministry, to inquire into the circumstances under which he was led astray, his present opinions and his moral conduct. It was further provided that the applicant should not be capable of holding any preferment until after the expiration of two years. In addition to this, when at length he obtained a preferment, he must, like any other person similarly situated, present to the bishop of the diocese a testimonial to the effect that for three years he has neither held nor taught anything contrary to the doctrine or discipline of the Church of England. Surely these safeguards were amply sufficient, and their Lordships might with perfect security for the interests of the Church and of religion allow a *locus pœnitentiæ* for these young men.—The Marquis of Salisbury thought the State ought to act towards the Church as it did towards the other professions of which it held itself to be the guardian. If a barrister retired from the bar he gave up all claim to be a barrister. His opinion was that in the event of the clause being passed, many a clergyman who did not get on very well in his profession would take a secular employment, and at the same time keep a second string to his bow; for, if the clerical profession improved, or if he had a prospect of obtaining a good living, he might return to the Church. —Earl Beauchamp supported the clause.—Lord Lyveden said the clause would allow a person to play fast and loose, which would be highly discreditable to the clerical profession.—The clause was rejected by a majority of 71 to 13. —The remaining clauses were agreed to.

The *Absconding Debtors Bill*.—Committee.—On the motion of Lord Penzance, approved by the Lord Chancellor, the first six clauses were replaced by others, providing, with checks, that the court might order a debtor to be arrested if, after a debtor's summons had been served upon him, and before a petition of bankruptcy could be presented against him, there was reason to believe he intended to go abroad or to quit his house to avoid service.

HOUSE OF COMMONS.

July 23.—*Licences for Carriages Lent*.—Mr. Salt asked the Chancellor of the Exchequer whether it was necessary, under the present law, that a coachmaker who lends (as a matter of courtesy, not of profit) a carriage to a customer for a few days, during the repairs of another carriage, upon which duty had been paid, should take out a fresh licence for the carriage so lent.—The Chancellor of the Exchequer. —The rule is that a licence must be taken out for every carriage used by the person who makes use of it. The coachmaker keeps it and uses it by lending it to another person, and therefore he must take out a licence for it.

July 25.—The *Appellate Jurisdiction* and *High Court of Justice Bills*.—In reply to Mr. G. Gregory, Mr. Gladstone was sorry to say the Government had been obliged to abandon the hope of being able to proceed with these Bills; but they proposed to call the attention of Parliament to the subject early next session.

The *Resignation of Benefices*, the *Union of Benefices*, and the *Sequestration Bills*.—In reply to Sir George Grey, Mr. Bruce said it was now too late to proceed with either of these three bills, which had come down from the Upper House.

The *Habitual Drunkards Bill*, the *Charities, &c., Exemption Bill*, and the *Ecclesiastical Dilapidations (No. 2) Bill* were withdrawn.

The *Corrupt Practices Act Amendment Bill* was read a second time.

The Lords' amendments to the *Liverpool Admiralty Districts Registrar Bill* were agreed to.

The *Government Law Charges*.—In committee of supply, on the vote of £44,615 for law charges, Mr. Alderman Lusk said this item for law expenses became heavier every year.—Mr. Rylands urged an inquiry into the whole subject, and suggested an amalgamation of the several departments as regards legal officers. The expense was augmented by the Foreign Office practice of sending whole sacks full of papers to the law officers relating to a case upon which their opinion was sought.—Mr. Watkin Williams said that no legal business was so troublesome as Government business, none was so badly paid for, and none so little sought after.—Mr. Stansfeld said that a great part of the charge arose under statute; and the increase was accounted for by a series of fresh charges, such as the costs of the Courts of Chancery and Bankruptcy.—Mr. Otway said the Foreign office, unlike the Home and Colonial Offices, had no legal adviser; and in dealing with delicate questions, such as those arising out of naturalisation and shipping, it was better to submit the whole of the papers in the case to the legal adviser instead of drawing up a case.—Sir Roundell Palmer said that although submitting the whole of the papers in a case to the law officers entailed upon them greater labour, it was more satisfactory to them than to be asked to give an opinion on a case drawn up by another. The vote was agreed to, as were the following votes:—£200,633 for criminal prosecutions; £173,831 for the Chancery Courts; £62,315 for the Common Law Courts; and £79,377 for the Bankruptcy Court.

Salaries of County Court Judges.—On the vote necessary to complete the sum of £420,632 for county courts, Mr. Norwood asked what extra pay it was proposed to give to the county court judges who had had extra business imposed upon them in consequence of their having an admiralty jurisdiction conferred upon them.—Mr. West remarked that not quite six admiralty cases per judge had come before the county court judges during the past six months. If the county court judges sat four days a week they would not do as much work as the judges of the superior courts, and four days a week would not be more than the public had a right to get in the shape of service from these learned gentlemen.—Sir Roundell Palmer considered that the Legislature was entitled to add to the business discharged by all the judges of the land any other business of a similar nature which these judges were qualified to perform, and which they had time to perform, and he could not think that whenever it was proposed to give them additional jurisdiction there ought to be a demand for increased remuneration. If the Legislature threw on the judges business of a totally different nature from that which they had been in the habit of performing, and involving other qualifications than those which they might be supposed to possess, the case would be different, because that would be asking them to enter into a new contract. He did not think, however, that the Legislature was ever likely to do anything of that kind.—Mr. Cross said the real question to be considered was this, when they had enormously increased the responsibilities and duties of the county court judges, whether the salaries were sufficient to draw from the bar men of sufficient standing and ability to discharge those duties.—Mr. Locke thought it a great mistake that larger salaries had not been given to those who had more important duties to perform. The number of days that a judge sat was not the criterion, but the duties which he had to perform.—Mr. Walpole remarked that if they required more arduous duties to be performed, and a greater amount of ability than the county court judges at present possessed, it would be reasonable to increase the salary in proportion to the extra work and acquirements which were expected.—The vote was agreed to, as were also votes of £91,520 for the Court of Probate and Divorce, and of £13,200 for the registry of the Admiralty Court.

The Land Registry Office.—On the vote of £5,570 for the Land Registry Office, Mr. Goldney said that two or three years ago an indirect promise was made that it should be ascertained whether this office could not be amalgamated with some other. The office had been a failure, because it was ineffectual for its purpose, and while the profession generally had set themselves against it, the office had not been advantageous to the owners of land. The amount of the officers' salaries was fixed by the Act which created the office, and therefore it was impossible to reduce the vote, but if the office could not be amalgamated it would be more economical to abolish it and give some compensation to the officers for the loss of their posts.—Sir Roundell Palmer admitted that the office had not been extensively used, but the committee had not now to consider the repeal of the Act which created it. He, however, believed that it contained the germs of usefulness, and that it would lead to the simplification of titles, while the opposition to it was not wholly disinterested. He was told that the Lord Chief Baron had personally, and without the assistance of a solicitor, passed through that office the title to some land in which he was interested, at a very insignificant expense. He (Sir Roundell Palmer) endeavoured to register the title to an estate that he bought, but was not successful owing to his having to wait until some special conditions had worked themselves out, but if he lived long enough he would carry the matter through. Before many

years had elapsed the House would have to take further steps towards the simplification of the law of real property, and then this office would prove useful.—The Chancellor of the Exchequer said there was much justice in the criticisms which had been passed on this office, but he hoped that hon. members would not persevere in their endeavours to break it up. He was one of the three commissioners on whose report the office was founded, and they thought that land should be dealt with on the same principle as money in the funds. Their report found favour with the legal authorities, but in carrying it into law Lord Westbury made a deviation which had been utterly fatal to the working of the office. It was with great sorrow that he found the office had not been successful, and it was quite right to say that the public did not get value for the money which was expended upon it. A commission, however, had been appointed to consider the matter, and their report, which recommended a return to the plan of the former commission, had been adopted by the Government, who had prepared a bill on the subject. Owing to the extraordinary pressure of business this session they had not had an opportunity of carrying that bill through the House, but if hon. members would be patient he trusted that another session would bring the bill before them.—Dr. Ball thought the office might be constituted on the principle of the Landed Estates Court, in which one-fifth of the land of Ireland had been sold. Perfect security was afforded, and the whole community derived great advantages.—The vote was then agreed to.

The *Brokers* (*City of London*) *Bill* was read a second time, it being stated that the Corporation would offer no further opposition.

The *Ballot Bill* (Mr. Leatham's bill). Debate on second reading, adjourned from March 16.—Mr. Gladstone having stated the reasons which had converted him from an opponent to an advocate of the ballot, and Mr. Disraeli having criticised those reasons and the withdrawal of the Government bill, the bill was read a second time.

The *Benefit Building Societies* and the *Corrupt Practices Act Amendment Bills* passed through committee.

July 28.—*The New Law Courts.*—Mr. G. Gregory moved —"That in the opinion of this House the building of the new Law Courts should be proceeded with without further delay." He should not trouble the House at any length with this subject, for he hoped that the First Commissioner was substantially of the same opinion as himself, that he would accept the motion, and was prepared, on behalf of the Government, to say that they would place on the votes an estimate for proceeding with the works. If that were so it would be unnecessary for him to proceed with the motion. —Mr. Ayrton said he was anxious to see the building of the new courts of law proceeded with at the earliest possible period. It was the intention of the Government to lay on the table that evening an estimate for taking the preliminary steps and what could be done between this and the meeting of Parliament next year. Therefore it was not expedient to anticipate the discussion that would arise when that estimate was considered in committee. He hoped to proceed with the estimate on Monday.

The *Irish Land Bill.*—The Lords' re-amendments were agreed to.

The *Brokers* (*City of London*) *Bill* passed through committee.

Neutrality Law—Merchant Ships Bought from Belligerents.—Admiral Erskine asked the Attorney-General whether a French or Prussian merchant ship, now in a British port, if purchased *bona fide* by a British subject, and duly registered, would be exempt from liability to capture, as being indisputably British property.—The Attorney-General: I am not entitled to give an authoritative opinion on this question. Moreover, it is obvious that these queries on points of international law cannot decide the questions involved, and may lead to embarrassing discussions with foreign powers. According to my understanding of the decisions of the British courts, such a vessel would be held exempt from capture, and I believe that is also the American doctrine. But I am bound also to state that the French have maintained a different doctrine. The French have maintained that if the subject of a belligerent state possesses a vessel liable to capture he cannot get rid of it by sale; and if a Prussian ship is captured the tribunal to decide the question would be French. Transactions of this kind are always looked on with a certain amount of suspicion by Prize Courts, which are very careful to inquire whether the transactions are altogether *bona fide* or only colourable; and if they come to the conclusion that the transactions are colourable, notwithstanding the apparent sale, the original owner retaining some interest, or having made some bargain to have the vessel restored after the cessation of hostilities, if the sale was not out and out, it is liable to capture.

SOCIETIES AND INSTITUTIONS.

INCORPORATED LAW SOCIETY.

ANNUAL REPORT of the COUNCIL submitted to the General Meeting of the Members on July 19, 1870.

(*Continued from page* 766.)

MORTGAGES BILL.

Very early in the session a bill was introduced into the House of Commons to facilitate the reinvesting of mortgaged estates in mortgagors. It was provided by the bill that a receipt endorsed on the mortgage deed for all moneys intended to be secured thereby, should be sufficient to vacate the same, and revest the estate in the person or persons for the time being entitled to the equity of redemption.

As might have been expected, a measure of such an imperfect character was very soon withdrawn. Very shortly afterwards, a second bill, of a similar character, was introduced, the object of it being, as stated in the preamble, to exonerate the owners of real property from the expense of getting a re-conveyance of a satisfied mortgaged estate.

By this bill it is provided that when any person competent to give a discharge for moneys due on any mortgage or other security shall, "by some writing," acknowledge or declare that the same has been paid or satisfied, then and from thenceforth the mortgaged hereditaments shall be held for the same estates, and in the same manner and right in all respects as the same would have been held had the mortgage never been made. Then with regard to copyholds, such "writing" is not to extinguish the estate of the satisfied mortgagee until endorsement of a memorandum of satisfaction on the court roll, and such memorandum shall be so endorsed by the steward, on production of such "writing" as aforesaid, the signature thereto being verified by affidavit, the lord and steward being entitled to the same fees as they would have been entitled to in case the mortgaged security had been transferred instead of extinguished.

The council have before expressed an opinion, when Parliamentary measures affecting the law of conveyancing have been under consideration, that legislation on isolated points is extremely mischievous, and they have often deprecated the practice of making important measures of conveyancing the subject of fragmentary legislation. It was, therefore, thought desirable once again to give expression to this view, and to point out, in addition, the objections they entertained to the mode in which it is proposed to carry into effect the objects contemplated by the preamble of the bill.

The council accordingly forwarded some observations to the Attorney and Solicitor-General, Mr. Jessel and Mr. Dodds, in which they directed attention to the following points, viz.—

The proposed "writing" must be founded on a previous investigation as to who is a "person competent to give a discharge," which is the main expense incurred in paying off a mortgage of long standing, and which expense, therefore, will not be saved if the bill passes.

In a simple case where there has not been any intermediate dealing with a mortgage, the deed reconveying the property is very short, and is usually endorsed on the mortgage; and in such cases there is no necessity for the proposed legislation, as the owner incurs but little expense beyond the stamp, which is equally chargeable on the writing proposed to be substituted for the reconveyance.

If a tenant for life pays off a mortgage charged on the *corpus* of a settled estate, and the mortgagee gives a receipt for the mortgage money, the mortgaged hereditaments would by the bill be excluded from the charge, as if the mortgage had never been made, to the detriment of the tenant for life, and those who claim under him.

The bill does not meet the case of a mortgage registered in any of the register counties in England, nor of mortgages in Ireland. A written acknowledgment or declaration could not have been the subject of a me-

morial for registry, and it may be doubted whether a writing without registration would in those counties, or in Ireland, have the effect intended. The document, moreover, designated as "some writing," if it be a mere receipt, would be very liable to be lost or mislaid.

That part of the bill which is applicable only to lands of copyhold or customary tenure, contemplates the transfer of a mortgage. The bill does not, apparently, apply to transfers of mortgages generally, but is limited to re-conveyances or re-assignments, and to surrenders on payment or satisfaction of the mortgage debt.

In the case of copyholds, where the mortgage is effected by covenant to surrender only, no notice of it appears on the court rolls, and if the covenant has been fulfilled by a conditional surrender, all that is now necessary is an acknowledgment of satisfaction of such surrender on the court rolls, and the bill provides nothing more, except the additional affidavit verifying the acknowledgment and, with it, consequent additional expense; moreover, the fee to the steward is now only 6s. 8d. or 13s. 4d. for enrolling the acknowledgment of satisfaction. Under the bill he will be entitled to fees as if the mortgage were assigned. This would involve the admission of the surrenderee, and a surrender by him, and a second admission.

If the first clause of the bill be held to apply to transfers of mortgages (and it possibly may so be held, because the mortgagee transferring acknowleges the receipt of his mortgage money), the latter part of the clause, vesting the estate as if the mortgage had never been made, might operate to exclude the transferee; and the result might be to prevent, in future, the transfer of a mortgage, and involve the necessity of a further mortgagee whenever a transfer is required.

If the mortgage is to be dealt with as if it had never existed, very serious questions will necessarily arise as to the operation of this provision on the right of tacking, and as to the dealings with the equity of redemption during the existence of the mortgage; the rights and priorities of persons dealing with an equitable estate being materially different to those of persons dealing with a legal estate.

The bill was withdrawn on the 7th of July.

Married Women's Property Bill.

Mr. Russell Gurney, Mr. Headlam, and Mr. Jacob Bright, the members who introduced this bill into the House of Commons, were members of the select committee to whom a bill, having the same object, was referred by the House in 1868. That committee examined witnesses as to the present state of the law in England, and the corresponding law in the United States and Canada; the objections to the former, and the benefit derived from the changes effected by the latter.

It would seem, on perusal of the appendix to the report of the select committee, that the evidence was, in a great measure, confined to witnesses from America and Canada, and some other persons whose evidence was almost exclusively confined to their experience amongst the working classes in London, and in some of the manufacturing towns. In their report, the select committee advocated a change in the law of England with reference both to the property and earnings of married women. The bill was brought in and read a second time in the year 1869, and referred again to a select committee, and as amended in that committee is the one introduced into the House in the present session.

The bill consists of three parts:—1st. It creates separate property for married women, to be recognised, and dealt with, as such, by the courts of common law. 2nd. It empowers married women to incur legal obligations, either by way of contract or tort, and defines the consequences of their so doing. 3rd. It amends the existing law in certain minor miscellaneous points.

It will be seen, therefore, that the bill effects a most complete alteration in the whole law as regards the property of married women, and although it is a measure that is entitled to great respect and consideration, reflecting as it does the opinion of so many able and eminent men, members of the select committee above referred to, yet it is confessedly a measure intended not for women who are possessed of property by inheritance or otherwise, but for those who have to struggle day by day with the hardships of life; such for instance as those engaged in mills or factories, or in a small way of business, to whom the law, protecting their earnings against dissolute husbands and securing to them the control of the fruits of their own labour, must obviously be a great advantage.

The more closely, however, the council examined this measure, the more serious appeared to be the disturbance of the existing social relations and legal system of this country, and it seemed to them that the bill ought not to become law until public opinion is prepared for so vast an alteration in the status of married women. The council did not, however, think it fitting that they should, on behalf of the profession, oppose the bill; for it is more within the province of legislators than legal practitioners to criticise its principle. It appeared to them desirable that they should confine themselves to stating the legal objections to the measure, and to an expression of opinion in favour of protecting the earnings of married women who are deserted or ill-used by their husbands.

The council accordingly presented a petition to the House of Commons to that effect, which Mr. George Gregory was kind enough to present; and they subsequently communicated their views to several leading members of the House of Lords. *

Acknowledgment of Deeds by Married Women's Bill.

The object of the bill is, according to the preamble, to facilitate the execution and acknowledgment of deeds by married women.

It is proposed by the bill, in the first instance to repeal all the provisions in the 3 & 4 Will. IV. c. 74, and 17 & 18 Vict. c. 75, and 20 & 21 Vict. c. 57, with regard to the acknowledgments of deeds by married women before a judge, or a master in Chancery, or before two perpetual commissioners, or two special commissioners, and the making, returning, filing, and completing the certificate of acknowledgment. And the bill proceeds to enact, that in future every such deed required by the above acts to be acknowledged by a married woman, shall be valid and effectual if acknowledged by her before a judge, or before any perpetual commissioner or any commissioner to administer oaths in Chancery, or any special commissioner to be appointed under the proposed Act; and a provision is inserted for the issue of a special commission in any case where, by reason of the residence abroad, ill-health, or any other sufficient cause, any married woman shall be prevented from making an acknowledgment in the manner provided by the proposed Act.

Also, that no commissioner shall be appointed to take acknowledgments who is in any manner interested or concerned in the transaction, or who is concerned as attorney, solicitor, or agent, or as clerk to the attorney, solicitor, or agent so interested or concerned.

The married woman is to be examined apart from her husband, in accordance with the existing system, and the judge or commissioner is to sign a memorandum on the deed, in the form contained in the schedule, and such memorandum, when so signed, is to be conclusive evidence of the acknowledgment, and that all the provisions of the Act have been observed and complied with.

The fee to be taken by the commissioners is the same fee as that now allowed by law to each separate commissioner on taking acknowledgments of married women.

This bill is practically the same as the Execution of Deeds Bill introduced by Mr. Goldney in the year 1867, and on which, on the invitation of Mr. Goldney, the council expressed their opinion.

The council adhered to the opinion they have already expressed, the effect of which is as follows:—They concurred in the desirability of reducing the expenses of the present system, which undoubtedly bear hardly on parties transferring property of small value. They also thought that the filing of the certificate and affidavit, and taking an office copy of the certificate, might be safely abolished, and that the endorsement on the deed proposed by the bill would be sufficient for all purposes. They considered that the power to take acknowledgments should not be extended to the commissioners for taking affidavits in Chancery, but that such acknowledgments should continue to be taken by perpetual commissioners selected by the Lord Chief Justice of the Common Pleas as persons of standing and experience; that one perpetual commissioner, however, should suffice to take an acknowledgment instead of two, as is now the practice.

In communicating their views to Mr. Goldney, the council

* The bill has been referred to a select committee of the House of Lords.

pointed out that they knew from experience that much care and knowledge on the part of perpetual commissioners are often required to ascertain and explain the full effect of deeds submitted for execution by married women, and that the fee payable to the commissioners ought not to be fixed at any lower sum than that authorised to be taken under the existing regulations. This latter suggestion has been adopted in the present bill.

The council also observed that there was no provision for compensating the registrar and clerks in the offices proposed to be abolished, and that no provision to this effect is inserted in the bill now before the House of Commons.

That portion of the present bill which points out the mode of examination of a married woman, omits, in the opinion of the council, to provide that the commissioner shall ascertain on the examination whether any provision is made for her in lieu of any interest she may have in the property dealt with, and that if so it should be certified that such a provision has actually been made.

Subject to these observations, the present bill, so far as it tends to reduce the technicalities and expense of the present system, seems to the council to be unobjectionable, and they made a communication to that effect to the members having charge of the bill, and to some other members likely to take an interest in the subject.*

Legal Education and Status of the Profession.

In their last report the council explained very fully the course they had taken with reference to a scheme for the establishment of a law university common to both branches of the profession, and they expressed their opinion that the subject is too large to be disposed of without the most anxious discussion, to which the council will always willingly be parties; but they considered that the opinion of the profession and the public is not at present sufficiently pronounced to justify them in attempting to procure legislation on the subject.

Since that time the following correspondence has taken place between the council and an association which has been formed, called the Legal Education Association:—

"Legal Education Association.
41, Bedford-row,
1st June, 1870.

Sir,—We are instructed by the Committee of the Legal Education Association to hand you copies of the circular in which is contained a statement of the objects of the association and a list of those who have already consented to become members of its council.

We are directed to ask the favour of your submitting the circular to the council of your society, and to express, on behalf of the association, the hope that they will approve of the objects which the association have in view, and will nominate some of their body as members of the council of the association.—We have the honour to be, Sir, your most obedient servants,

Arthur John Williams,
William A. Jevons,
Frank R. Parker,
E. W. Williamson, Esq. Hon. Secretaries."

"Incorporated Law Society, U.K.
Chancery-lane, London, W.C.,
11th June, 1870.

Dear Sirs,—I am directed by the Council of the Incorporated Law Society to acknowledge the receipt of your letter of the 1st instant, enclosing a circular in which is contained a statement of the objects of the Legal Education Association, and a list of those who have already consented to become members of its council; also expressing a hope that the council of this society will approve of the objects which the association has in view, and will nominate some of their body as members of the council of the association.

The education of our branch of the profession is a measure of the greatest importance, and deserves the full consideration which the council of this society have always given to it. The improvements which have been made at the instance of this society during the last few years, by the establishment of the preliminary and intermediate examinations and law classes, afford evidence of the anxiety of the council on the subject.

The change proposed in your circular is so extensive, that the council consider they ought not, in their corporate character, and as representing so large a proportion of the practising attorneys and solicitors, to express their approval of the object of the association, without ascertaining, as far as practicable, the views and opinions of the profession. When the details of the proposed scheme are laid before the council, they will give them their best consideration.

The council consider that it would be premature for them now to nominate any of their body as members of the council of the association.—I am, dear Sirs, yours faithfully,

E. W. Williamson, Secretary.

Arthur Jno. Williams, Esq.,
William A. Jevons, Esq.,
Frank R. Parker, Esq.,
Hon. Secretaries,
Legal Education Association,
41, Bedford-row."

Commissions to Administer Oaths in Chancery.

At the annual general meeting of the society, held on the 10th of July, 1868, the members were informed that the council had supported the Committee of Management of the Metropolitan and Provincial Law Association in a memorial to Lord Chancellor Cairns, praying that his Lordship would be pleased to grant commissions to administer oaths in Chancery, upon the application of all solicitors of ten years' standing, who could produce the requisite certificates of respectability, although they resided or carried on their business within one mile of Lincoln's-inn Hall.

At the same meeting, a letter was read from the secretary to the Lord Chancellor to the secretary of the Metropolitan and Provincial Law Association, stating that the view which the Lord Chancellor took of the measure was, that when it could be done it was very desirable that all affidavits and declarations should be made at some public office, and that the appointment of commissioners was to be regarded in the light of an indulgence to those suitors and others who, from the circumstance of their residence or otherwise, are unable to obtain reasonable and easy access to such public offices. That, as the Record and Writ Clerk's Office is close to Lincoln's-inn Hall, and is open for some part of the day during the whole year, no necessity exists for the relaxation of what his Lordship considered to be the better practice, by the appointment of commissioners in the immediate neighbourhood; and that, entertaining this opinion, the Lord Chancellor declined to enter further into the question.

In May last, the council received a letter from the secretary to the present Lord Chancellor asking whether, in the opinion of the council, the rule which limits the granting of applications to such solicitors as reside within the prescribed distance of Lincoln's-inn might not properly be rescinded, and also whether the procedure for obtaining commissions to administer oaths in the country might not be assimilated to the more simple procedure with regard to applications in London; and whether, in fact, the appointment of a commissioner might not be properly given to any solicitor whose respectability is established, without reference to distance from Lincoln's-inn or the number of other commissioners in the immediate neighbourhood of his office. The Lord Chancellor's secretary also observed that should the appointments be thus generally made, and the procedure as to country commissions thus simplified, it had been suggested that in lieu of the present stamp of £1 a stamp of £5 should be impressed upon every appointment to be so made.

The council, in answer to this inquiry, addressed a letter to the Lord Chancellor's secretary expressing their entire concurrence in the suggestions made with reference to granting commissions to all solicitors of known respectability who had been ten years in practice, without reference to the rule above referred to, and stating that the council failed to perceive any reason why the procedure with reference to commissions granted to country solicitors might not be assimilated to the more simple procedure adopted with regard to commissions granted in London. The council also referred to the correspondence with Lord Cairns on the subject in the year 1868, and observed, with regard to the suggested increase of the stamp, that such increase was inexpedient and unnecessary, as appointments to administer oaths are not granted for the personal benefit of the solicitors to whom they may be given, but for the convenience of the suitors and the profession generally.

(*To be continued*).

* The bill was withdrawn on the 7th July.

OBITUARY.

MR. S. HATCHARD.

Mr. Samuel Hatchard, barrister-at-law, died suddenly in London on the 25th of July. He was the third son of the late Rev. John Hatchard, M.A., Vicar of St. Andrew's, Plymouth. His three surviving brothers are the Rev. J. Alton Hatchard, of St. Leonard's-on-Sea, Dr. Thomas Hatchard, and Commander Josiah Hatchard, R.N., now in command of H.M.S. *Cameleon*. Mr. S. Hatchard was called to the bar at Lincoln's-inn in April, 1853, and practised at the chancery bar as a draughtsman and conveyancer.

MR. F. H. NEWELL.

Mr. Frederick Hasell Newell, solicitor, of North-hill, Colchester, died on Sunday evening, July 10, at the age of eighty-two, having been admitted in the year 1815. We take the following from the *Essex Standard*:—"Remarkable as he was for high-minded conscientiousness in the discharge of his varied professional duties, and for his moderation and wisdom as a counsellor and adviser, he will be still better remembered for the constancy and earnestness with which he aided every religious and benevolent movement in this town and neighbourhood for upwards of half a century. For 25 years he was the active Secretary of the Colchester and East Essex Church Missionary Association; and other kindred societies, *e.g.*, the Bible Society, the Society for Promoting Christianity Amongst the Jews, the Religious Tract Society, Church Pastoral-Aid Society, &c., &c., ever reckoned on his devotion, and never reckoned in vain. He was a member of the Hospital Committee from its formation: indeed that excellent institution will lose in him a most steady and faithful friend—for during many years, and until his last illness, he employed every Sunday afternoon in reading to and conversing with the patients. . . . By his decease the Original Winstree Association for the Prosecution of Felons will lose a faithful solicitor and treasurer, Mr. Newell having being associated with the society in that capacity for upwards of fifty years. . . . Mr. Newell was of an ancient family originally seated in Yorkshire, but for many generations resident in the Low Countries. He was the youngest son of Dr. Robert Newell, of Colchester, a man of great celebrity in his profession, and associated with Dr. Jenner in his researches and discoveries. At the weekly meeting of the committee of the Essex and Colchester Hospital on Thursday the following resolution was passed, and ordered to be entered on the minutes:—'The weekly committee have heard with the deepest regret of the death, since their last meeting, of one of their oldest members, indeed, one of the founders of the hospital, that of Mr. F. H. Newell, who for the long period of fifty years has uninterruptedly attended to the affairs of the institution, taking a lively interest in the conduct of the business, in the welfare of the officers of the establishment, and in the comfort of the patients, not only visiting them frequently during the week, but also for many years regularly on the Sabbath. The loss of this gentleman will be greatly felt, and it is the wish of the board that their sympathy and condolence on the melancholy occurrence be suitably presented to Mrs. Newell.'"

LAW STUDENTS' JOURNAL.

LECTURES AND LAW CLASSES AT THE INCORPORATED LAW SOCIETY.

The following gentlemen have been re-appointed Lecturers and Readers for the year ensuing:—

H. W. Elphinstone, Esq., on Conveyancing and the Law of Real Property.

F. Kelly, Esq., on Equity.

H. M. Bompas, Esq., on Common Law and Mercantile Law.

COURT PAPERS.

COMMON LAW PROCEDURE ACTS.

Extension to "The Court of Pentice" and "The Court of Portmote," Chester.

1870. July 6. Whereas by the Common Law Procedure Act, 1852, the Common Law Procedure Act, 1854, and the Common Law Procedure Act, 1860, it is enacted, that it shall be lawful for her Majesty from time to time, by an Order in Council, to direct that all or any part of the provisions of the said Acts respectively shall apply to all or any courts or court of record in England and Wales, and that within one month after such order shall have been made and published in the *London Gazette*, such provisions shall extend and apply in manner directed by such order, and by the Acts secondly and thirdly mentioned it is further provided that in and by such order her Majesty may direct by whom any powers or duties incident to the provisions applied under the said three Acts respectively, shall and may be exercised with respect to such court or courts, and may make any order or regulations which may be deemed requisite for carrying into operation in such court or courts the provisions so applied; and whereas it has seemed fit to her Majesty, by and with the advice of her Privy Council, that the provisions hereinafter mentioned of the said Acts should be extended and applied to the courts of record of the city and borough of Chester, called "The Court of Pentice" and "The Court of Portmote":

Now, therefore, her Majesty, by and with the advice aforesaid, is pleased to order and direct, and it is hereby ordered and directed, that within one month after this order shall have been published in the *London Gazette*, the provisions of the Common Law Procedure Act, 1852, contained in the sections of the said Act numbered respectively 2 to 8 (both inclusive), 11, 13, 15, 16, 17, 20, 25 to 40 (both inclusive), 41, except so much thereof as relates to causes of action in different counties, 42 to 81 (both inclusive), 83 to 96 (both inclusive), 117, 118, 119, 123, 126, 128, 129, 130, 131, so far as (and inclusive) of the words "or to the like effect," in that section, 133 to 138 (both inclusive), 139, except the words "two terms," which shall be read as if they were "three months," 140, 141, 142, 143, except so much thereof as relates to a motion in arrest of judgment, pursuant to 1 Will. 4, c. 7, 144, 145, 168 to 177 (both inclusive), 178, except so much thereof as relates to the sheriff being directed to summon a jury, 179, 180, 181, 183, 187 to 201 (both inclusive), 203 to 207 (both inclusive), 209 to 214 (both inclusive), and 218 to 222 (both inclusive); and also that the provisions of the Common Law Procedure Act, 1854, contained in the sections of the said Act numbered respectively 18 to 31 (both inclusive), 83 to 86 (both inclusive), and 96; and also that the provisions of the Common Law Procedure Act, 1860, contained in the sections of the said Act numbered respectively 19, 20, and 21, shall apply and be extended to the said courts of record called the "Court of Pentice" and the "Court of Portmote." And her Majesty is further pleased, by and with the advice aforesaid, to order and direct that all the powers and duties incident to the above-mentioned provisions, hereby applied and extended to the said Courts of Pentice and Portmote, and exercisable under any of the said provisions by the Court or a judge, shall and may, with respect to matters in the said Courts of Pentice and Portmote, be exercised by the recorder for the time being of the said city and borough of Chester, or by his duly appointed deputy; and that the powers and duties incident to the above-mentioned provisions, and exercisable under any of the said provisions by a master, shall and may, with respect to matters in the said Courts of Pentice and Portmote, be exercised by the registrar for the time being of the said courts, or by his duly appointed deputy.

COURT OF PROBATE.

Debtors Act, 1869.

Rules for regulating the Practice under and carrying into effect the First Part of the said Act.

In pursuance of the Debtors Act, 1869, it is ordered, that on and after the day mentioned at the foot of these rules, the following rules shall be in force for regulating the practice under and carrying into effect the first part of the said Debtors Act, 1869.

1. All applications to commit to prison under sect. 5 shall in the first instance be made by summons before the judge, which shall specify the date and other particulars of the order for non-payment of which the application is made, together with the amount due, and be indorsed with the name and place of abode or office of business of the proctor or attorney actually suing out the summons, and in case such attorney shall not be an attorney of this court, then also with the name and place of abode or office of business of

the attorney in whose name such summons shall be taken out, and when the attorney actually suing out such summons shall sue out the same as agent for an attorney in the country, the name and place of such attorney in the country shall also be indorsed upon the said summons, and in case no attorney shall be employed to issue the summons then it shall be indorsed with a memorandum expressing that the same has been sued out by the plaintiff or defendant in person, as the case may be, mentioning the city, town, or parish, and also the name of the hamlet, street, and number of the house of such plaintiff's or defendant's residence, if any such there be.

2. The service of the summons, wherever it may be practicable, shall be personal; but if it appear to the judge that reasonable efforts have been made to effect personal service, and either that the summons has come to the knowledge of the debtor, or that he wilfully evades service, an order may be made as if personal service had been effected upon such terms as to the judge may seem fit.

3. Proof of the means of the debtor shall, whenever practicable, be given by affidavit; but if it appear to the judge, either before or at the hearing, that a *viva voce* examination, either of the debtor or of any other person, or the production of any document, is necessary or expedient, an order may be made commanding the attendance of any such person before the judge at a time and place to be therein mentioned for the purpose of being examined on oath touching the matter in question (or and) for the production of any such document, subject to such terms and conditions as to the judge may seem fit. The disobedience to any such order shall be deemed a contempt of court and punishable accordingly.

4. The order of committal (which may be in the form A in the schedule or to the like effect) shall, before delivery to the sheriff, be indorsed with the particulars required by rule 1 of these rules. Concurrent orders may be issued for execution in different counties. The sheriff shall be entitled to the same fees in respect thereof as are now payable upon a *ca. sa.*

5. Upon payment of the sum or sums mentioned in the order (including the sheriff's fees, in like manner as upon a *ca. sa.*) the debtor shall be entitled to a certificate in the form B in the schedule, or to the like effect, signed by the proctor or attorney in the cause of the plaintiff or defendant, as the case may be, or signed by the plaintiff or defendant, as the case may be, and attested by an attorney or justice of the peace.

6. The sheriff or other officer named in an order of committal shall, within two days after the arrest, indorse upon the order the true date of such arrest.

SCHEDULE.

A.

Upon hearing, &c. [*Christian and surname of the debtor and party claiming*] I do order, That the said *A. B.* be, for default of payment of the debt hereinafter mentioned, committed to prison for the term of —— weeks from the date of his arrest, including the day of such date, or until he shall pay £——, being the amount of [*here state the particulars of the debt or liability*], and which the said *A.B.* was on the —— day of —— ordered by the Court of Probate to pay to the said ——, [*or*, into the registry of the said court], together with £—— for costs of this order, and sheriff's fees for the execution thereof, and I order that the sheriff of —— do take the said *A.B.* for the purpose aforesaid, if he shall be found within his bailiwick.

Dated, &c.

B.

I certify that *A.B.*, now in the gaol of ——, upon an order of the judge of Her Majesty's Court of Probate, at the suit of *C.D.*, for non-payment of a debt of ——, has satisfied the said debt, together with the costs mentioned in the said order.

Dated, &c.

E.F., of, &c.
Proctor *or* Attorney for the said *C.D.*,
or
C.D., of, &c.

Witness to the signature of *C.D.*,
G.H., his Attorney,
or
I.K., Justice of the Peace for ——.

(Signed) PENZANCE.

Approved,
(Signed) HATHERLEY, C.
A. E. COCKBURN, C.J.

PUBLIC COMPANIES.

GOVERNMENT FUNDS.

LAST QUOTATION, July 29, 1870.

From the Official List of the actual business transacted.

3 per Cent. Consols, 89⅞	Annuities, April, '85
Ditto for Account, Aug. 89⅞	Do. (Red Sea T.) Aug. 1908
3 per Cent. Reduced 89⅞	Ex Bills, £1000, — per Ct. 5 p m
New 3 per Cent., 89⅞	Ditto, £500, Do — 5 p m
Do. 3½ per Cent., Jan. '94	Ditto, £100 & £200, — 5 p m
Do. 2½ per Cent., Jan. '94	Bank of England Stock, 4½ per Ct. (last half-year) 233
Do. 5 per Cent., Jan. '73	Ditto for Account.
Annuities, Jan. '80 —	

INDIAN GOVERNMENT SECURITIES.

India Stk., 10½ p Ct. Apr. '74, 204	Ind. Enf. Pr., 5 p C., Jan. '72 106
Ditto for Account	Ditto, 5½ per Cent., May, '79 109½
Ditto 5 per Cent., July, '80 110	Ditto Debentures, per Cent., April, '84 —
Ditto for Account, —	Do. Do, 5 per Cent., Aug. '73 104
Ditto 4 per Cent., Oct. '88 101	Do. Bonds, 4 per Ct., £1000 24 pm
Ditto, ditto, Certificates, —	Ditto, ditto, under £1000, 24 pm
Ditto Enfaced Ppr., 4 per Cent. 93	

RAILWAY STOCK.

Shres.	Railways.	Paid.	Closing prices
Stock	Bristol and Exeter	100	84
Stock	Caledonian	100	73½
Stock	Glasgow and South-Western	100	119
Stock	Great Eastern Ordinary Stock	100	32
Stock	Do., East Anglian Stock, No. 2	100	7
Stock	Great Northern	100	115
Stock	Do., A Stock*	100	122
Stock	Great Southern and Western of Ireland	100	100
Stock	Great Western—Original	100	62
Stock	Lancashire and Yorkshire	100	128
Stock	London, Brighton, and South Coast	100	35
Stock	London, Chatham, and Dover	100	13
Stock	London and North-Western	100	123
Stock	London and South-Western	100	86
Stock	Manchester, Sheffield, and Lincoln	100	41 x d
Stock	Metropolitan	100	66
Stock	Midland	100	122
Stock	Do., Birmingham and Derby	100	93
Stock	North British	100	34
Stock	North London	100	117
Stock	North Staffordshire	100	59
Stock	South Devon	100	44
Stock	South-Eastern	100	67
Stock	Taff Vale	100	

* A receives no dividend until 6 per cent. has been paid to B.

MONEY MARKET AND CITY INTELLIGENCE.

With the exception of the advance in the Bank] discount rate, which has now mounted to five per cent., the week has been very much like the preceding one. The amount of distrust with which the various markets have been regarded has varied from day to day, and prices rule much as last week. They will go up as soon as the end of the war arrives, and they may in the meantime fall lower than they now are. The last rise in the Bank rate may be regarded more as a precaution than as a measure prompted by any shortness in the supply of money.

THE WAR.

The following have been issued by France and Prussia respectively :—

FRANCE.

His Majesty the Emperor of the French has felt himself obliged, in order to defend the honour and interests of France, as well as to protect the balance of power in Europe, to declare war against Prussia and against the Allied States which afford her the co-operation of their arms against us.

His Majesty has given orders that, in the prosecution of this war, the commanders of his forces, by land and sea, shall scrupulously observe towards such powers as shall remain neutral the rules of international law, and shall especially conform to the principles laid down in the Declaration of the Congress of Paris of the 16th of April, 1856, which are as follows :—

1. Privateering is and remains abolished.

2. A neutral flag covers enemy's merchandise, with the exception of contraband of war.

3. Merchandise of neutrals, except contraband of war, sailing under an enemy's flag is not seizable.

4. Blockades, in order to be binding, must be effectual; that is, they must be maintained by a force really sufficient to prevent the enemy from obtaining access to the coast.

Although Spain and the United States did not adhere to the treaty of 1856, his Majesty's ships will not seize enemy's property sailing on board an American or Spanish vessel, unless such property is contraband of war.

Moreover, his Majesty does not intend to vindicate his right of confiscating the property of American or Spanish subjects which may be found on board an enemy's vessel.

The Emperor is confident that, in just reciprocity, her Majesty's Government will have the goodness to prescribe measures for the exact observance on their part by the British authorities and subjects of the duties of strict neutrality during this war.

PRUSSIA.

Decree respecting the capture and seizure as prize of war of French merchant vessels. July 18, 1870.

French merchant vessels shall not be subject to be captured or seized as prizes of war by vessels of the Royal Navy of the Confederation. This rule does not, of course, apply to those vessels which would be subject to capture or seizure if they were neutral vessels.

*** As to the case of vessels purchased by neutrals of subjects of the belligerents, see Parliament, House of Commons, July 28.

BIRTHS, MARRIAGES, AND DEATHS.

BIRTHS.

GODSON—On July 25, at Erdington, Warwickshire, the wife of A. F. Godson, Esq., barrister-at-law, of a daughter.

JONES—On July 20, at Rhayader, Radnorshire, the wife of Mr. Clement Jones, solicitor, of a daughter.

MARTIN—On July 22, at The Elms, Frindsbury, near Rochester, the wife of Charles Martin, solicitor, Strood, Kent, of a son.

MONCKTON—On July 26, at East Moulsey, Surrey, the wife of Edward P. Monckton, Esq., barrister-at-law, of a son.

MARRIAGES.

GOUGH—MOXON—On July 26, at the parish church of St. Marylebone, John Hill Gough, of the Middle Temple, Esq., to Anne Penrose, eldest daughter of the late John Moxon, Esq., of 8, Hanover-terrace, Regent's-park.

MANNING—ATHORPE—On May 26, at St. Mark's Church, Sydney, N.S.W., Charles J. Manning, barrister-at-law, of C.C.C., Oxon, to Clara Isabella, daughter of J. C. Athorpe, Esq., Dinnington-hall, Yorkshire.

PAYNE—WHITWORTH—On July 21, at Willen, Bucks, Robert Payne, solicitor, of Frome, Somerset, to Alice Mary, only daughter of William Whitworth, Esq.

WALTER—WATSON—On July 21, at St. George's, Bloomsbury, George Walter, jun., of Havelock-house, Twickenham, to Lizzie, eldest daughter of Ralf Watson, Esq., solicitor.

DEATHS.

ASPLAND—On July 27, at his residence, Glamorgan-house, Durdham Down, near Bristol, Algernon Sydney Aspland, barrister-at-law, of the Middle Temple, in his 61st year.

HODGKINSON—On July 25, at Kirkby-in-Ashfield, Notts, George Hodgkinson, solicitor, late of Wirksworth, Derbyshire, aged 60.

TILLEARD—On July 25, John Tilleard, Esq., of 34, Old Jewry, and Upper Tooting, Surrey, aged 76.

LONDON GAZETTES.

Winding up of Joint-Stock Companies.

FRIDAY, July 22, 1870.

UNLIMITED IN CHANCERY.

Albert Average Association for British, Foreign, and Colonial Built Ships.—The Master of the Rolls has, by an order dated May 6, appointed Thomas Kennedy, of 11, Old Jewry-chambers, to be official liquidator. Creditors are required, on or before Sept 29, to send their names and addresses, and the particulars of their debts or claims, to the above. Wednesday, Nov. 2, at 11, is appointed for hearing and adjudicating upon the debts and claims.

Arthur Average Association for British, Foreign, and Colonial Built Ships.—The Master of the Rolls has, by an order dated May 6, appointed Thomas Kennedy, of 11, Old Jewry-chambers, to be official liquidator. Creditors are required, on or before Sept 29, to send their names and addresses, and the particulars of their debts or claims, to the above. Wednesday, Nov. 2, at 11, is appointed for hearing and adjudicating upon the debts and claims.

North Wheal Exmouth Mining Company.—The Master of the Rolls will, on Wednesday, Aug 3, at 1.30, at his chambers, proceed to make a call on the several persons who are settled on the list of contributories of the company; and proposes that such call shall be for four shillings and sixpence per share.

TUESDAY, July 26, 1870.

UNLIMITED IN CHANCERY.

Briton Ferry Gas and Coke Company.—Petition for winding up, presented July 22, directed to be heard before Vice-Chancellor Malins on the next petition-day. Norris & Co, Bedford-row, for Tennant, Abervon, solicitor for the petitioner.

Central Cornwall Railway Company.—Vice-Chancellor Malins has, by an order dated July 15, ordered that the above company be wound up; and that Mr. Robert Fletcher, of 2, Moorgate-street, should be appointed official liquidator. Bell & Stewards, of 49, Lincoln's-inn-fields, for Gurney & Co, Launceston, solicitors for the petitioner.

Liverpool and District Permanent Benefit Building Society.—Creditors are required, on or before Aug 21, to send their names and addresses, and the particulars of their debts or claims, to Anthony Wigham Chalmers, of Liverpool. Tuesday, Sept 13, at 11, is appointed for hearing and adjudicating upon the debts and claims.

Saltash and Callington Railway Company.—Creditors are required, on or before Sept 15, to send their names and addresses, and the particulars of their debts or claims, to Edward Nicolls, of Callington, Cornwall. Thursday, Nov. 3, at 12, is appointed for hearing and adjudicating upon the debts and claims.

LIMITED IN CHANCERY.

Caterham Gas Company (Limited).—The Master of the Rolls has, by an order dated July 15, appointed William Henry Davis, of 17, St. Swithin's-lane, to be official liquidator. Creditors are required, on or before Sept 22, to send their names and addresses, and the particulars of their debts or claims to the above. Wednesday, Nov. 2, at 11, is appointed for hearing and adjudicating upon the debts and claims.

Leeswood Main Coal Cannel and Oil Company (Limited).—Creditors are required, on or before Sept 1, to send their names and addresses, and the particulars of their debts or claims, to James Wakefield, of Chester. Saturday, Nov. 12, at 12, is appointed for hearing and adjudicating upon the debts and claims.

Mont Cenis Railway Company (Limited).—Petition for winding up, presented July 14, ordered to stand over for hearing till Wednesday, Aug. 3. Harrison & Co, Bedford-row, solicitors for the petitioner.

Trowbridge Water Company (Limited).—Vice-Chancellor Malins has, by an order dated July 15, ordered that the winding up of the above company be continued. Russell & Co, Old Jewry-chambers, solicitors for the petitioners.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, July 22, 1870.

Bracher, John, Cannon-st, Iron Safe Manufacturer. Oct 22. Bracher v Reed, V.C. Malins. Wontner, Cloak-lane.

Bradley, Arthur, Oldbury, Worcester, Miner. Sept 1. Farr v Bradley V.C. Stuart. Wright, Oldbury.

Duff, Adam, Henley-on-Thames, Oxford, Esq. Aug 16. Barnes v Duff, M.R. Ellis & Ellis, Spring-gardens.

Goldfinch, Geo, Plymouth, Devon, Captain, R.N. Oct 1. Burridge v Burridge, V.C. Stuart. Fraser, Furnival's-inn.

Hopkinson, Job, Retford, Nottingham, Cattle Dealer. Aug 20. Bishop v Frogson, V.C. Malins. Burnaby, East Retford.

Levett, Philip Stimpson, Albert-road, Regent's park, Esq. Sept 1. Hale v Walton, M.R. Waltons & Co, Gt Winchester-street.

TUESDAY, July 26, 1870.

Fisher, John Tallents, Lillington, Warwick, Esq. Oct 1. Pratt v Harvey, V.C. Stuart. Petgrave & Hodgkinson, Furnival's-inn.

Godbold, Robert, Farsham, Norfolk, Brewer. Oct 10. Garneys v Godbold, V.C. Stuart. Hartcup, Bungay.

Liardet, Francis Filmer, Southampton, Hants, Esq. Oct 10. Liardet v Morley, V.C. Stuart. Taylor & Son, Field-ct, Gray's-inn.

Perry, Louisa, Avenue-road, Regent's-park. Aug 6. Perry v Wallington, V.C. Stuart. Baker & Co, Crosby-square, Bishopsgate street.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, July 22, 1870.

Auty, Ben, Dewsbury, York, Stonemason. Aug 5. Scholes & Brerey Dewsbury.

Burgess, John Leland, Macclesfield, Chester, Bookseller. Aug 31. Hand Macclesfield.

Cowland, Geo, Piccadilly. Aug 29. Hodgson, Salisbury-st, Strand.

Edmonds, Richard, New Cross, Surrey, Esq. Sept 3. Marchant, Deptford.

Ellis, John, Swaffham, Cambridge, Farmer. Sept 20. Francis & Co, Cambridge.

Hobbs, Jas Smith, Lane End, Buckingham, Iron Founder. Sept 14. Reynolds, High Wycombe.

Instone, Thos, Burton, Salop, Farmer. Aug 16. Potts & Son, Broseley.

Jewell, Chas, sen, St Mary Cray, Kent, Innkeeper. Aug 8. Russell & Co, Old Jewry-chambers.

Kitto, Rev Jas Wm, Dresden, Saxony. Aug 22. Barfield, Plowden-bldgs, Temple.

Lupton, Wm, Scarborough, York, Esq. Sept 16. Booth & Co, Leeds.

Mintorn, John, Clifton, Bristol, Gent. Oct 1. Stricklands & Robinson, Bristol.

Parkins, Rebecca, College-pl, Camden-town. Sept 10. Davis, College-pl, Camden-town.

Pellew, Hon Fras, Newbury, Berks, Widow. Aug 20. Brooks & Co, Godliman-st, Doctors'-commons.

Rose, Rev Fras, Uffington, Berks, D.D, Nov 1. Ormond, Wantage.

Scholey, Wm Stephenson, Reading, Berks, Esq. Oct 1. Freshfields, Bank-bldgs.

Tamlyn, John, Barnstaple, Barrister-at-Law. Aug 1. Chanter & Finch, Barnstaple.

Taylor, Christopher, Freetown, Sierra Leone, Esq. Dec 31. Tppetts & Son, Gt St Thomas Apostle, Queen-st.

Wadley, Martha, Whitminster, Gloucester. Widow. Aug 31. Wiltons & Riddiford, Gloucester.

Wiseman, Sophia, Bridge-rd, Hammersmith. Sept 13. Rutherford & Son, Gracechurch-st.

TUESDAY, July 26, 1870.

Asterley, Samuel, Shrewsbury, Salop, Grocer. Aug 30. Price, Shrewsbury.

Braine, Jas Williams, Chambord Fontac, Jersey, Surgeon. Sept 1. Gadsden & Treherne, Bedford-row.

Collett, Samuel, Exhall, Warwick, Yeoman. Sept 1. Jones & Son, Alcester.

Dickens, Chas, Gads Hill-pl, Kent, Esq. Sept 9. Farrer & Co, Lincoln's-inn-fields.

Faulkner, Edward, Newcastle-upon-Tyne, Master Mariner. Aug 23. Kidd & Co, Newcastle-upon-Tyne.

Hall, Robert, Upper Cam, Gloucester, Gent. Aug 18. Mullings & Co, Cirencester.
Hare, Eliza, Ashmore Villa, Penge. Sept 1. Gadsden & Treherne, Bedford-row.
Hare, Wm, Ashmore Villa, Penge, Gent. Sept 1. Gadsden & Treherne, Bedford-row.
Hill, Edward Hy, Worcester, Boat Builder. Sept 1. Corbett, Worcester.
Hudson, Wm, Nottingham, Gent. Sept 15. Cowley, Nottingham.
Jackson, Harriet Martha, Bath, Widow. Aug 31. Routh & Stacey, Southampton-st, Bloomsbury.
Lindley, Joseph, sen, Handsworth, York, Shoe Maker. Sept 1. Johnson & Weatherall, for Burdekin & Co.
Loe, Thos Brown, Gray's-inn, Gent. Sept 1. Ravenscroft & Hills, Gt James-st.
Marriott, Richard, Abbot's Hall, Essex, Esq. Sept 1. Harris & Morton, Halstead.
Parsons, Edward, High-st, Wandsworth, Builder. Aug 26. Robinson, Jermyn-st.
Partington, Wm, Abbot's Lench, Worcester, Farmer. Aug 31. Jones & Son, Alcester.
Rabone, John, Acocks-green, Worcester, Farmer. Sept 1. Allcock & Milward, Birm.
Ridgway, Richard Bowling Hunter, Bow, Blackawton, Devon, Esq. Sept 12. Dawes & Son, Angel-ct, Throgmorton-st.
Rimmer, Thos, Alcester, Warwick, Needle Manufacturer. Aug 31, Jones & Son, Alcester.
Whiteacre, John, Woodhouse, York, Esq. Nov 15. Grane & Son, Bedford-row.
White, Wm, Alcester, Warwick, Gent. Sept 1. Jones & Son, Alcester.
Wright, Esther, Louth, Lincoln, Widow. Sept 1. Bell, Louth.

Bankrupts

FRIDAY, July 22, 1870.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in London.

Chillingworth, Joseph, Church-st, Stoke Newington, Wine Merchant. Pet July 19. Pepys. Aug 10 at 1.30.
Gillespie, John, Gt St Helen's, Merchant. Pet July 6. Hazlitt. Aug 3 at 11.
Hand, Hy Augustus, New-st, Cloth-fair, Box Maker. Pet July 21. Pepys. Aug 8 at 12.
Vavasseur, Geo, Inverness-ter, Grove-rd, Hammersmith, Iron Church Builder. Pet July 19. Pepys. Aug 3 at 2.
Williams, Eliz, Orchard-st, Portman-sq, Milliner. Pet July 18. Spring-Rice. Aug 3 at 12.30.

To Surrender in the Country.

Allen, Wm, Birm, Builder. Pet July 18. Chauntler. Birm, Aug 3 at 11.
Andrew, Geo, & Abel Andrew, Manch, Bakers. Pet July 18. Kay. Manch, Aug 4 at 9.30.
Arnold, Jas, Yetminster, Dorset, Boot Maker. Pet July 15. Batten. Yeovil, Aug 5 at 12.
Brougham, Wilfred, Folkestone, Kent. Pet July 19. Callaway. Canterbury, Aug 15 at 1.
Carter, Wm, Ipswich, Suffolk, Glover. Pet July 20. Grimsey. Ipswich, Aug 6 at 11.
Clement, Richd, Stamford, Lincoln, Innkeeper. Pet July 16. Gaches. Peterborough, Aug 6 at 12.
Farrington, Lawrence, Iram Moss, Manch, Farmer. Pet July 20. Hulton. Salford, Aug 8 at 11.
Harvey, Sir Robt John Harvey, Bart, Roger Allday Kerrison, & Roger Kerrison, Norwich. Pet July 22. Palmer. Norwich, Aug 3 at 11.
Hitt, Hy, Plymouth, Devon, Baker. Pet July 20. Pearce. East Stonehouse, Aug 3 at 11.
Matthews, Hy Melvin, East Fareham, Hants, Lieut H.M.'s 2nd Foot. Pet July 19. Howard. Portsmouth, Aug 3 at 12.
Maxwell, Danl, Pontypool, Monmouth, Draper. Pet July 18. Roberts. Newport, Aug 9 at 1.
Parratt, John, jun, Lpool, Comm Merchant. Pet July 20. Hime. Lpool, Aug 3 at 2.
Patterson, John McMillan, Fisherton Anger, Wilts, Draper. Pet July 19 Wilson. Salisbury, Aug 11 at 12.
Richards, Fredk, Wilmslow, Cheshire, Civil Engineer. Pet July 13. Kay. Manch, Aug 4 at 9.30.
Wilson, Wm Skea, Lpool, Tailor. Pet July 19. Hime. Lpool, Aug 2 at 2.

TUESDAY, July 26, 1870.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in London.

Beckley, Geo, Oxford-st, Saddler. Pet July 21. Spring-Rice. Aug 10. at 2.
Chaborne, Alphonse, Camden-st, Camden Town, Gent. Pet June 8. Spring-Rice. Aug 8 at 12.30.
Laws, Jas, Woodstock-rd, Stroud Green-lane, Builder. Pet July 21. Pepys. Aug 8 at 1.30.
Newton, Augustus, Canterbury-rd, Kilburn, Licensed Victualler. Pet July 22. Spring-Rice. Aug 8 at 2.

To Surrender in the Country.

Cooper, Jas, Tring, Hertford, Boot Manufacturer. Pet July 20. Watson. Aylesbury, Aug 8 at 11.
Cresswell, Caleb, Birm, Tin Plate Worker. Pet July 22. Chauntler. Birm, Aug 8 at 11.
Essery, Robt, Northampton, Tailor. Pet July 23. Dennis. Northampton, Aug 12 at 10.
Henderson, Geo Hy, & Joseph Reed, Southampton, Jewellers. Pet July 21. Thorndike. Southampton, Aug 6 at 12.
Hirst, Joseph, & Edwd Hirst, Halifax, York, Wood Turners. Pet July 22. Dyson. Halifax, Aug 5 at 10.
Jenkins, John, Bridgend, Glamorgan, Grocer. Pet July 21. Langley. Cardiff, Aug 12 at 11.
Lawrence, Thos, Ulverston, Lancashire, Ironmonger. Pet July [illegible]. Postlethwaite. Ulverston, Aug 11 at 10.
Leach, Wm, & John Tough, Newcastle-upon-Tyne, Boot Makers. Pet July 22. Mortimer. Newcastle, Aug 9 at 12.
Lion, Hy Solomon, Lpool, Boot Dealer. Pet July 21. Hime. Lpool, Aug 5 at 2.
Maltby, Wm Alfd, Sutterton, Lincoln, Innkeeper. Pet July 20. Stone-land. Boston, Aug 9 at 1.
Rothery, Handel, & Geo Fredk Rothery, Halifax, York, Worsted Spinners. Pet July 21. Dyson. Halifax, Aug 5 at 10.
Whitwam, Sarah, Leeds, Licensed Victualler. Pet July 22. Marshall. Leeds, Aug 9 at 11.
Trevaskis, Saml, Redruth, Cornwall, Travelling Draper. Pet July 21. Chilcott. Truro. Aug 6 at 12.
Tidbury, Chas Hollingsworth, Seend, Wilts, Innkeeper. Pet July 21. Smith. Bath, Aug 11 at 1.

BANKRUPTCIES ANNULLED.

TUESDAY, July 26, 1870.

Lawton, Chas, Ashton-under-Lyne, Lancashire, China Dealer. July [illegible].